Kenyan tea workers argue that Unilever owes them reparations after failing to protect them from brutal attacks.

MARIA HENGEVELD
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Beating the spread:
A cleaning service worker applies hospital-grade disinfectant to the cardboard cutouts filling the stands prior to an NCAA basketball game at George Mason University.

**FEATURES**

14 Blood on the Tea Leaves
MARIA HENGEVELD
After a brutal attack, Kenyan workers fight for reparations from Unilever.

20 Let a Thousand Biographies Bloom
DAVID NASAW
Trying to police a book on Christopher Hitchens is both futile and foolish.

24 A Wrench in the Works
BRYCE COVERT
Janet Dhillon’s tenure at the EEOC has jammed the gears of justice.

4 Editorial
Arsonists, Not Firefighters
Social media companies aided and abetted Trump.
JEET HEER

5 Comment
No New Terror Laws
We don’t need to expand the War on Terrorism.
MOUSTAFA BAYOUMI

10 The Nation

4 Report
Georgia Goes Blue
The Dems did everything right, and Trump did everyone dirty.
JOAN WALSH

32 The Empire Is the World
The speculative fiction of N.K. Jemisin.
STEPHEN KARSEE

35 Yeats’ Stance (poem)
JEAN VALENTINE

38 End Notes
The long history of forecasting capitalism’s demise.
DANIEL LUBAN

41 My Husband Tells Me About a Man... (poem)
EUGENIA LEIGH

43 Unexpected Insight
Luca Guadagnino’s We Are Who We Are.
ERIN SCHWARTZ

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The chaotic and criminal final weeks of Donald Trump’s presidency gave many of his accomplices a chance to recast themselves as heroes. A spate of last-minute resignations allowed administration officials like former attorney general Bill Barr to whitewash their long history of complicity and present themselves as brave truth-speakers. Senator Mitch McConnell, who spent four years shielding Trump from congressional oversight, basked in positive press for finally voicing some criticism when the outgoing president incited his followers to storm the US Capitol.

These newly minted anti-Trumpers are all, to borrow a phrase from the writer Anand Giridharadas, arsonists trying to rebrand themselves as firefighters. Among these fake heroes are the social media giants like Twitter, Facebook, YouTube, Instagram, Snapchat, Reddit, and Twitch, which have all banned Trump and his campaign from posting on them.

There’s no reason to shed a tear for the death of Trump’s social media accounts, given that he used these forums to fan the flames of violence. But Trump and his followers were quick to cry censorship.

Their arguments are rife with hypocrisy. Promoters of unfettered capitalism are hardly in a position to argue that private companies shouldn’t set the rules for the users of their services. Moreover, Trump’s entire political career has been fueled by social media. Twitter allowed him to define himself as a brash outsider, not afraid to mete out insults against conventional politicians like “Crooked Hillary,” “Low Energy Jeb,” and “Sleepy Joe.” Facebook has been a torpid hothouse where countless Trumpian conspiracy theories, most notably QAnon, have flourished.

It’s easy to take a heroic stance when the stakes are low, as they were for the social media outlets that turned on Trump in the very twilight of his presidency. Earlier in his political career, the same companies were more than happy to profit from him in numerous ways: He was a reliable generator of clicks, his campaign was a generous purchaser of advertising, and his tax cuts made Silicon Valley billionaires even richer. Motivated purely by fears of revenue-damaging regulations and boycotts, the current social media crackdown is completely capricious. It highlights why such important decisions shouldn’t be left to the heads of a few very large firms.

German Chancellor Angela Merkel, according to her spokesman, Steffen Seibert, considers Twitter’s banning of Trump “problematic.” For Merkel, the parameters governing incendiary speech ought to be set by democratically elected bodies.

Merkel is exactly right. When incendiary speech does genuinely threaten democracy, it becomes too important a matter to be left in private hands. Social media relies on a public infrastructure, just as TV and radio do, and can be regulated in the same manner.

The Russian politician Aleksei Navalny argues that Trump’s banning could set a bad precedent to be used against political speech. In place of fiat assertions about who is banned, Navalny suggests that Twitter “create some sort of a committee that can make such decisions. We need to know the names of the members of this committee, understand how it works, how its members vote and how we can appeal against their decisions.”

Beyond the special quandary of incendiary speech, there is the larger problem that the social media giants are now de facto monopolies. As New York Times columnist Michelle Goldberg notes, “The ability of tech companies, acting in loose coordination, to mostly shut up the world’s loudest man is astonishing, and shows the limits of analogies to traditional publishers.” If these firms are so powerful they can be the primary gatekeepers between a president and the public, that is even stronger evidence that they have outgrown democratic control. Here also, government can play a role. Senator Elizabeth Warren’s proposal to use antitrust law to break up these firms now has a new urgency.

As a short-term measure, the social media crackdown on Trump might be welcomed. But Trump will soon be gone. Facebook, Twitter, and the other Internet Leviathans will remain. They should be the targets of a campaign for far-reaching reform.
The siege of the Capitol has renewed calls for a law against domestic terrorism. But that would be a serious mistake.

After the storming of the US Capitol by a right-wing mob on January 6, lawmakers and pundits are pushing again to expand the War on Terrorism. The day after the siege, The Wall Street Journal reported that, as president, Joe Biden would “make a priority of passing a law against domestic terrorism,” noting that “he has been urged to create a White House post overseeing the fight against ideologically inspired violent extremists.” In the Senate, Dick Durbin plans to reintroduce a version of the Domestic Terrorism Prevention Act that he put forward in 2019. With deadly right-wing violence looming ever larger, new domestic terrorism statutes are likely just around the corner.

But this is a terrible idea.

To understand why, we must first contend with the reasons this issue exists in the first place. It may come as a surprise that there is no federal law punishing domestic terrorism. While the Patriot Act did expand the definition of terrorism to include its domestic variety, opening the door to expanded forms of surveillance, it did not create a specific set of penalties for such acts. From a legal perspective, the term “domestic terrorism” is “practically inconsequential,” according to the legal website Just Security.

The situation is vastly different when talking about foreign terrorism. As soon as the government establishes a person’s connection, no matter how tenuous, to one of the 69 US-designated foreign terrorist organizations, that person can be subjected to all kinds of dubious law enforcement practices, often leading to more severe criminal charges and triggering enhanced penalties upon conviction. Since most of the organizations on this list operate in Muslim-majority countries, the connection between Muslims and terrorism has become cemented in our legal thinking, to say nothing of our larger political and social imaginations. Even in cases when there is no direct connection to a foreign terrorist organization, American Muslims accused of violence are still characterized as international terrorists by the Justice Department.

In other words, a terrorism double standard exists, one that is deeply entrenched in both our laws and our culture and that has given rise to the discourse we’re now all familiar with: White-guy shooters get labeled as angry or desperate, while Muslim shooters are defined as terrorists. The former are examined as troubled individuals; the latter no longer belong to humanity.

It might seem, then, that a domestic terrorism statute could perhaps operate as a great equalizer. There’s certainly something satisfying in calling a monster like Dylann Roof a terrorist. But Muslim Americans know better than most the damage that is done with the terrorism label. Over the past 20 years, Muslim American communities have been subject to wave after wave of state repression, including sweep arrests after the 9/11 attacks, mass deportation programs aimed specifically at people from Muslim-majority countries, and the spread of spies and informants within our midst. The most prosaic behavior has been stigmatized: If you’re a Muslim man, law enforcement deems it suspicious if you grow a beard, quit smoking, or become involved in activism. Under the government’s Countering Violent Extremism programs, teachers have been asked to keep tabs on their Muslim students and report those who criticize the US government or the West.

And this is but a fraction of what’s happened. I haven’t even mentioned the no-fly lists, the Muslim bans, or the efforts to entrap poor and often intellectually challenged Muslims in fake terrorism plots.

Far-right violence is, of course, deeply troubling. Right-wing extremists have been responsible for the majority of the terrorist attacks in the United States since 1994, according to the Center for Strategic and International Studies. They are without doubt a grave and serious menace. But there is already plenty of prosecutorial power on the books to deal with far-right violence. As Mike German of the Brennan Center for Justice wrote, “The Justice Department’s inattention to far-right violence is a matter of long-standing policy and practice, not a lack of authority.” The real scandal is not the lack of a domestic terrorism statute. It is the free pass that white supremacy has had from law enforcement all these years.

Reacting to the recent spate of politically motivated violence by granting more power to national security and law enforcement agencies won’t solve anything. Instead, such a move will endow the state with even greater authority, thereby threatening others—including and perhaps especially left-wing, dissenting, immigrant, Black, and Indigenous groups and individuals, if American history is any guide. We should not enlarge the reach of the War on Terrorism to the point where we all, in one way or another, fall under its umbrella. We should instead be aiming to end it.

We should not enlarge the War on Terrorism to the point where we all, in one way or another, fall under its umbrella.

It’s not that I’m naïve about the perils ahead. I know how much the extreme right wing hates me and people like me. But expanding, rather than questioning, both the definition of “terrorist” and the War on Terrorism? I wouldn’t wish that on my worst enemy.

Moustafa Bayoumi is a writer and scholar.
Georgia Goes Blue

Democrats did everything right. Trump did everyone dirty.

The white supremacist attack on the US Capitol on January 6 temporarily obscured the titanic achievement of Georgia Democrats the night before: defeating right-wing Senators Kelly Loeffler and David Perdue in the state’s runoff elections, electing the Rev. Raphael Warnock and Jon Ossoff and giving Democrats control of the Senate, with Vice President Kamala Harris poised to break any 50-50 tie. (Take that, racists.) Progressives had no time to celebrate, though, and it was almost as if that were the point. Of course, the hard-won result in Georgia did not inspire the deadly and seditious riot; we know the violence had been planned in plain sight for weeks, if not months, on social media and elsewhere.

But certainly the victories, by a Black preacher and a Jewish documentary filmmaker, helped drive the racist mob and its leaders to an even more vicious frenzy. At his rally before the riot, which got him impeached for a historic second time, Donald Trump derided the Georgia results and told the angry crowd to head to the Capitol and “fight like hell.” Fighting back was “much more important today than it was 24 hours ago, because I spoke to David Perdue—what a great person—and Kelly Loeffler—two great people—but it was a setup,” he claimed, another allusion to his bogus charges that Joe Biden’s Georgia win and those of Warnock and Ossoff were illegitimate.

Trump is partly to blame for his party’s historic losses. In the run-up to the runoffs, Georgia Democrats did everything right, and the state’s Republicans did almost everything wrong. Meanwhile, Trump—on his way down history’s drain—did everyone dirty.

Let’s first give credit where it’s due: to former Georgia House minority leader Stacey Abrams, who narrowly lost the state’s governorship to Brian Kemp in 2018 and went on to form the voting rights groups Fair Fight and Fair Fight Action. Between lawsuits and voter organizing, the two groups made sure the state’s historic turnout in the general election didn’t crater for the runoff. A group Abrams previously founded, the New Georgia Project, has reached its maturity over the last several election cycles, with director Nsé Ufot working alongside a broad range of groups, from Black Voters Matter and Mijente to the Asian American Advocacy Fund, the Latino Victory Fund, and so many others.

Georgia Democrats and progressive groups also got back “on the doors,” and it paid off. While the Covid crisis mostly shut down canvassing in the summer and fall, Democrats took it up again safely and energetically in the runoff. “Canvassing has been for a long time a strength of Democratic campaigns, but in 2020, and rightly so, Democrats put protecting people’s lives over the pursuit of power,” Abrams told me a few days before the Senate victories. “We’ve had aggressive mobilizing on the ground during the runoff.”

That mobilization featured paid organizers from Georgia’s diverse communities, with canvassers who spoke Spanish or one of a number of Asian languages (plus ads, social media, and literature in those languages). In the end, the percentage of Black voters who participated climbed since November, while according to Fair Fight Action, the Latino, Asian American, and Pacific Islander turnout dipped only slightly.

Perhaps most important, local organizers, with national legal backup, beat back dozens of efforts at voter suppression, both before and after the November election, by some conservative groups and local officials in dozens of counties. (Now state Republicans are pushing to repeal Georgia’s no-excuse absentee ballot—ironically, a GOP initiative once thought to help its candidates, especially in rural areas—and add a voter ID requirement to the absentee ballot process.)

Democrats also got an assist from Trump, who has spent much of his time since his loss trashing Kemp and Georgia’s secretary of state for not finding a way to sniff out nonexistent voter fraud and hand him the state. And while he appeared at a rally for Loeffler and Perdue on the eve of the runoff, Trump’s rambling speech attacked Georgia Republicans, harped on claims that the general election had been stolen, and by most accounts discouraged at least some of his base from turning out at all.

If the violent Capitol siege deprived Democrats of some joy over the Warnock and Ossoff wins, they are likely to feel plenty of it in the coming months as the pair help Biden confirm his cabinet appointees, enact a real plan to battle Covid, and pass a relief package. Trump has been impeached again, but the outcome of a Senate trial remains uncertain. It would certainly bend the arc of the moral universe toward justice if Georgia’s two new Democratic senators played a role in convicting the man who fomented a resurgence of racist and anti-Semitic terror.
No Offense
David Bromwich

Passion Will Be Our Enemy

The preservation of our liberties has always depended more on habit than on compulsion.

They are still deciding what to call the events of January 6: Riot? Insurrection? Coup? From the Wilkes mob and the Gordon mob in 18th century London to our own Seattle and Portland mobs, hyperbole and euphemism have fought a close contest in this area. Consider two stock phrases that look synonymous but have come to mean very different things. “Law and order” may convey the preconditions of a free society, but the use of that slogan—by Richard Nixon’s campaign in 1968 and its successors in 1988 and 2016—gave the words a dubious odor. Repression of speech and assembly and ordinary freedom of action could be hidden under the seemingly harmless phrase. Yet no such opprobrium has ever attached to the instruction to abide by “the rule of law.” Why not?

In the absence of the law-abiding habit, we could hardly trust our fellow citizens in the commonest daily encounters. Civil society depends on self-restraint far more than on regulation by the authorities. A rational commitment to equality likewise depends on self-restraint. The axiom that all persons are equal under the law will only prevail where citizens restrain their desire for power. In a free society, the authorities can never enforce habits the people at large decline to practice.

No better analysis exists of the reasons to abide by the law than Abraham Lincoln’s “Lyceum Address” of 1838. The speech was one of a series commissioned by the Young Men’s Lyceum of Springfield, Ill., on the perpetuation of American institutions. Lincoln, who was just 28 when he delivered it, took as his occasion the recent accounts of “outrages committed by mobs,” which “form the every-day news of the times” and “have pervaded the country, from New England to Louisiana.” The outrages in question all involved the passions of a mob leading to the killing of persons. “Alike,” said Lincoln, these incidents “spring up among the pleasure hunting masters of Southern slaves, and the order loving citizens of the land of steady habits.”

Among the scenes “revolting to humanity” was the hanging of gamblers in Vicksburg, Miss., but the mob went on from there: “Next, negroes, suspected of conspiring to raise an insurrection, were caught up and hanged in all parts of the State; then, white men, supposed to be leagued with the negroes; and finally, strangers, from neighboring States.” Lincoln is still more shocked by a “horror-striking scene at St. Louis,” the lynching of “a mulatto man, by the name of McIntosh,” who was “seized in the street, dragged to the suburbs of the city, chained to a tree, and actually burned to death; and all within a single hour from the time he had been a freeman, attending to his own business.” These episodes have in common the replacement of law by mob rule.

The lynchings in Vicksburg and St. Louis, said Lincoln, show what happens when “the lawless in spirit,” by going unpunished, are permitted to become “the lawless in practice.” Such outbreaks amount to more than a concern of certain localities: “By the operation of the mobocratic spirit, which all must admit, is now abroad in the land, the strongest bulwark of any Government, and particularly of those constituted like ours, may effectually be broken down and destroyed—I mean the attachment of the People.”

In recounting the events of the preceding months and years, Lincoln deplores most of all the violence done to persons, yet he by no means exempts the destruction of property—“whenever the vicious portion of the population shall be permitted to gather in hundreds of thousands, and burn churches, ravage and rob provision stores.” Then, as now, mob actions were not isolable to a single group or party cause. Their example was infectious because vice, as well as virtue, may catch by contact.

The date of the talk, January 27, 1838, reminds us that the bank and real estate panic of 1837 had seen many livelihoods destroyed, just as they have been during the Covid-19 lockdown and the protests sparked by the killing of George Floyd. But Lincoln searched deeper. He spoke of a spiritual letdown in that fourth decade of the 19th century. The revolutionary generation had almost entirely passed away, but no substitute had been found for “the powerful influence which the interesting scenes of the revolution had upon the passions of the people as distinguished from their judgment.” It seems fair to draw an analogy with the generation of the Cold War and the mixed triumphalism and bewilderment that followed its close. Was a new enemy on the horizon required to secure our own habits of liberty? If so, the Global War on Terrorism has turned...
out to be a poor substitute. A Domestic War on Terrorism, if the Biden administration tries to launch one, will answer our present discontents just as ineffectually.

The enduring post–World War II confidence of, say, 1947—the year that saw the launching of Truman’s Loyalty Program—has finally slipped away altogether. As Lincoln said of 1776, “Those histories are gone…. They were a fortress of strength; but, what invading foes could never do, the silent artillery of time has done.” The specter of world communism is gone. The wars fought in the name of defeating terrorism, from Afghanistan to Iraq to Libya to Syria to Yemen, have never ceased, but it has been a long decade since they made any kind of sense to most Americans.

Lincoln sought to remedy the violence of the mob spirit by inculcating piety toward the laws. Americans, he proposed, should swear on the memory of the Revolution “never to violate in the least particular, the laws of the country; and never to tolerate their violation by others.” The law-abiding disposition should in fact become “the political religion of the nation.” What could a young lawyer in 1838, with no religious pretensions, have meant by a “political religion”? It was not quite the same as a superstition. After all, there are bad laws, which “if they exist, should be repealed as soon as possible”; yet “while they continue in force, for the sake of example,” those laws “should be religiously observed.”

Since people are taught by example and not only by precept, bad examples on any side should not be tolerated. “There is no grievance,” Lincoln concluded, “that is a fit object of redress by mob law.” The annoying piety toward the laws. Americans, he proposed, should swear on the memory of the Revolution “never to violate in the least particular, the laws of the country; and never to tolerate their violation by others.” The law-abiding disposition should in fact become “the political religion of the nation.” What could a young lawyer in 1838, with no religious pretensions, have meant by a “political religion”? It was not quite the same as a superstition. After all, there are bad laws, which “if they exist, should be repealed as soon as possible”; yet “while they continue in force, for the sake of example,” those laws “should be religiously observed.”

Since people are taught by example and not only by precept, bad examples on any side should not be tolerated. “There is no grievance,” Lincoln concluded, “that is a fit object of redress by mob law.” And again: “Passion has helped us; but can do no more. It will in future be our enemy.” Reason is an honored word in the constitutional lexicon. Responsibility is another. They have not been heard from lately, and they are worth reviving.

Those involved in the Capitol riot must face consequences.

However horrific the crimes and cruelties they commit, it’s the rest of us who are guilty—of not offering them enough empathy and compassion. And even as their conspiracy-fueled paranoia and racial fascism have festered, they’ve been coddled via narratives that paint them as good, hardworking, salt-of-the-earth patriots. But patriotism, to modify a phrase, is the first refuge of white supremacist terrorists. And the portrayal of Trump supporters as a monolith of uneducated, small-town rubes duped into “voting against their interests,” as the saying goes, is a classist projection of those who imagine that racism only afflicts poor whites. We knew even before the 2016 presidential election that the median household income for Trump supporters outpaced that of the average American home. It should be no surprise that in addition to expected attendees such as the Proud Boys, neo-Confederates, and militia members, white-collar seditionists and state-backed players took part in the Capitol riot. Attorneys, a jet-setting real estate broker, a tech CEO, and at least six Republican state legislators identified in the days after the riot laid siege to the Capitol alongside active-duty military and veterans, as well as off-duty cops and firefighters, many of them reportedly flashing their badges and IDs as they took part in the attempted coup.

These were the kinds of very fine, almost exclusively white people who took over the Capitol in the president’s name. The marauding crowds were not all small-town factory workers gripped by economic anxiety. The insurrection drew folks who could afford to fly from their hometowns to D.C. for the weekend. Once there, they took part in a few unpolicied hours of domestic terror and insurgency before returning to their nearby hotels.

That violent manifestation of white backlash has been threatening to consume the rest of us for years. The actions of the rioters belied the law-and-order rhetoric trumpeted by Trump supporters throughout his administration. Though they’d shouted “Blue lives matter!” when confronted with Black death, they viciously attacked the Capitol Police, killing one officer. Despite demonizing Black athletes for protesting systemic racism by kneeling during the anthem, they entered the Capitol with Trump banners and the treasonous Confederate flag. They’ve claimed that anti-racist protesters and “radical leftists” have denigrated this country, but literally defiled the Capitol by smearing excrement throughout its hallowed halls. They say they’re

There is no grievance,”
Lincoln concluded,
“that is a fit object of redress by mob law.”

Time for Accountability

No one in the United States has been treated with more unearned grace and deference over these past four years than Donald Trump’s supporters. Their anger is always justified, their failures someone else’s, and their accountability for their own actions nonexistent.

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defending democracy, but they’re attempting to overturn an election in which Black voters played a decisive role.

After four years of openly aired racial grievances and threats of violence, the Capitol riot was the most defiant expression of white rage in modern American history. By occupying the seat of national government, the rioters sent a message about the boundlessness of whiteness’s dominion, which is indifferent to the laws that whiteness creates. The police response—non-existent at times and complicit at others—only helped drive the message further home.

And while it’s true that Trump and his craven GOP abetters have relentlessly pushed election disinformation and pro-insurrectionist propaganda, the white terrorists who attacked an entire branch of government have made the choice to believe those lies. How else to explain that while all Americans were exposed to those conspiracy theories, only Trump’s aggrieved white followers have gone all-in, using them to justify their efforts to overturn democracy?

That’s why those involved must face consequences, something we haven’t seen enough of yet. The right-wingers who in April invaded Michigan’s statehouse in an armed tantrum over the state’s coronavirus lockdown faced no charges until October. Just seven months later, gun-toting extremists attempted a takeover of Oregon’s State Capitol. Only five people were arrested. Six of the conspirators in a scheme to kidnap Michigan Governor Gretchen Whitmer and televise the execution of multiple state lawmakers have been indicted, but the case remains a terrifying indicator of the lethal danger posed by homegrown white terrorists. Kyle Rittenhouse, the 17-year-old who fatally gunned down two Black Lives Matter demonstrators in Kenosha, Wis., in August, has become such a right-wing celebrity that he crowdsourced his $2 million bail. Despite footage documenting the shootings, he pleaded not guilty to all charges in a hearing earlier this month.

There are many more examples of heat-packing Trump supporters and other neofascists menacing society, but suffice it to say that the normalization of right-wing violence demands that accountability for the Capitol rioters be a national priority. The FBI’s efforts to locate and prosecute an ever-growing list of those involved is a decent start (though arrests at the scene would’ve made more sense, but no looking back now, I suppose). Other measures we’ve seen—such as receiving public opprobrium, including job losses—are well deserved. Otherwise, count on yet more displays of white terrorist violence from Trump followers every time they don’t get their way. And lots more bloodshed.

In fact, the FBI has already announced that more insurrections aimed at overturning the election are on the horizon. According to an internal bulletin obtained by ABC News, the bureau “received information about an identified armed group intending to travel to Washington, DC on 16 January. They have warned that if Congress attempts to remove POTUS via the 25th Amendment, a huge uprising will occur.” In effect, Trump’s shock troops are attempting to hold the nation hostage to their political goals. Any argument against pursuing violent right-wing extremists because it further inflames extremists ignores that they plan to pick up arms and seek revenge in any case.

We’re long past the point when the right-wing violence that springs from white entitlement threatens to destroy us all. Accountability in this moment is only the first step in stopping a far more deadly takeover in its tracks.
In the aftermath of 9/11, President George W. Bush established the Department of Homeland Security, the largest federal law enforcement organization and the third-largest federal employer in the country. The DHS boasts more than 200,000 employees—in addition to over 60,000 law enforcement officers—and encompasses agencies like the Secret Service and the Federal Protective Service. How did this sprawling national security apparatus fail to prevent a crisis that represents the closest we’ve come to a violent occupation of the Capitol since the War of 1812? Law enforcement documents obtained exclusively by The Nation through open-records requests provide some clues.

Last year, I undertook a tortuous back-and-forth with law enforcement agencies all over the country. (In one case, I even had to file suit against the Florida Department of Law Enforcement in a Florida court.) In the end, I managed to amass the titles of hundreds of intelligence reports quietly being compiled by the little-known law enforcement facilities known as “fusion centers,” which proliferated in the wake
of 9/11. The lists revealed what these secretive facilities in California, Florida, Minnesota, Ohio, Texas, Washington state, and Washington, D.C., were up to in 2019 and 2020, a period in which the country was rocked with social unrest unprecedented in recent history.

After the DHS became operational in 2003, fusion centers sprang up in virtually every state across the country. Though they’re technically governed by state rather than federal law, they were designed to facilitate the sharing of counterterrorism intelligence between local and federal law enforcement agencies, the DHS in particular. Though local law enforcement’s sudden access to sophisticated federal intelligence drew criticism from civil liberties groups like the ACLU, proponents argued that such intelligence sharing was necessary to prevent the next 9/11. But despite this sprawling network—by the DHS’s own count, there are currently 79 fusion centers in operation—D.C.’s Capitol Police claimed to have received no warnings about the Capitol riot.

Judging by the catalogs I obtained, the reason for the lapse is simple: These fusion centers aren’t focused on counterterrorism. Far from the lofty justifications given for their existence—securing the homeland and so on—the titles of the reports they’ve produced suggest a focus on criminal activity (supposed or otherwise) so mundane it’s at times comical.

The Central Florida Intelligence Exchange investigated the “Criminal and Violent Extremist Use of Emojis” and were tracking an ongoing situation it described as “Subscribers of Black Extremism Collaborate Musically.” It also opened files related to the release of the 2019 movie Joker and a Harry Potter game for mobile phones. The North Florida Fusion Exchange and the Central Florida Intelligence Exchange collaborated on a “Joint Intelligence Bulletin” looking into a “Cookie Thief.” The Fort Worth Intelligence Exchange investigated a plot to break Joe Exotic, the subject of the Netflix documentary Tiger King, out of jail (“THEY CAN’T STOP US ALL” reads the transcript, presumably citing the plotters’ machinations). They were also on the case regarding matters designated as “BEast OMG” and “DAY OF THE GIRL.” The National Capital Region Threat Intelligence Consortium appears to be the savviest (or perhaps just the youngest) of these centers, turning its attention to viral challenges on TikTok and FaceApp. Meanwhile, the Washington State Fusion Center opened a report “concerning a homeowner working on cars in his driveway and letting oil run down the street into Mission Creek in Olympia.”

While I don’t have the complete reports, these titles seem to suggest that substantial resources have been dedicated to subjects unrelated to terrorism. That is not to say I didn’t request the complete reports; I did. But the fusion centers either refused to produce them, citing their sensitivity, or redacted them beyond all recognition. Consider the Minnesota Fusion Center, which declined to disclose the titles of any of its intelligence reports. It did, however, produce the underlying documents, the relevant contents of which were so thoroughly redacted that even the bullet points were blacked out.

In some cases, it’s not just the relevance of the reports that appears questionable. The National Capital Region Threat Intelligence Consortium of Washington, D.C., produced an intelligence report titled “Novel Coronavirus Unlikely to Impact the District at This Time.” (The ill-fated report is dated January 2020.) Even less amusing are the reports detailing protests that, far from being terror threats, would appear to be constitutionally protected First Amendment activity that is supposed to be exempt from law enforcement monitoring. The National Capital Region Threat Intelligence Consortium even lists a report explicitly titled “First Amendment-Protected Events,” claiming the activities under investigation have the “potential for low-level violence.”

Perhaps most surprising is the astonishing number of incidents labeled “suicide by cop”—cases in which a suicidal person attempts to provoke a deadly response from law enforcement. In the case of the Texas Fusion Center, one single page of report titles refers to “suicide by cop” three times, “suicidal subject” six times, and “possible suicidal LEO” (law enforcement officer) once—all between July and August 2019. One wonders how many lives might be saved in situations like this if the response was made by mental health professionals instead of law enforcement.

I came to see this as the most darkly symbolic example of the workings of our supercharged national security apparatus. Not only does it undertake the invasive surveillance of citizens, squander money and resources, and ultimately fail to prevent terrorism, it also creates its own potentially lethal dangers. There is a stark opportunity cost to investing in this system instead of robust social services. This year, even as Congress spent months vacillating on whether to provide Americans with meager stimulus checks during the greatest economic calamity since the Great Depression, it promptly passed—and by an overwhelming margin—a $740 billion National Defense Authorization Act.

Much is expected to change after the long-awaited transfer of power in the White House. But as the War on Terrorism approaches its 20th anniversary with no end in sight, it seems as though the Department of Homeland Security and the bloated intelligence apparatus it’s come to represent are here to stay.
A military band rehearses outside the Capitol on January 18 for the inaugural ceremony of President-elect Joe Biden and Vice President-elect Kamala Harris. The inauguration—which bore the theme “America United”—came just two weeks after supporters of Donald Trump breached the Capitol while hundreds of Congress members were inside certifying the presidential vote.

**SNAPSHOT**

By the Numbers

| 3.9M | Number of guns sold in June 2020, the height of the Black Lives Matter protests—the highest monthly figure in 22 years |
| 58% | Percentage increase in the number of guns purchased by Black Americans in 2020, compared with 2019 |
| 40% | Share of 2020 gun buyers who were first-time owners |
| 40% | Percentage increase in the number of guns purchased in 2020, compared with 2019 |
| 995 | Number of people in the US shot and killed by the police in 2020 |
| $5.8M | Amount spent by the National Rifle Association on the January 6 Senate runoffs in Georgia |
| 11 | Chapter of the US Bankruptcy Code under which the NRA filed for protection on January 15 |

Rounding Up the Capitol-Mob Lawbreakers

Their faces were there in the picture
ID was the simplest of tasks.
They shouldn’t have scorned Dr. Fauci
For saying we must wear our masks.

—Maria Jesús Mora
BLOOD on the TEA LEAVES

Kenyan tea workers argue that Unilever owes them reparations after failing to protect them from brutal attacks.

BY MARIA HENGEVELD
At least four men armed with machetes and clubs broke into Anne Johnson’s home. They forced her husband and 11-year-old son into the bedroom and kept Anne and her teenage daughters in a separate room. To this day, she doesn’t know for certain if the men who raped her, her husband, and her daughters were her coworkers. “They spoke the local language,” Anne testified, but “they blindfolded us so we could not see who they were.”

By 2007, when the attack took place, Anne and her husband, Makori (their names are pseudonyms to protect the family from retaliation), had lived and worked for more than a decade on a Kenyan tea plantation owned by Unilever, the London-based household-goods giant known for such brands as Lipton Tea, Dove, Axe, Knorr, and Magnum ice cream. In December of that year, hundreds of men from the neighboring town of Kericho would beat, maim, rape, and butcher the plantation’s residents during a week of terror.

The attackers killed at least 11 plantation residents, including Makori, whom they raped and fatally wounded in front of his son, and one of the Johnsons’ daughters. They looted and burned thousands of homes and injured and sexually assaulted an unknown number of people, who were targeted because of their ethnic identity and presumed political affiliation.

A contested presidential election triggered the violence. The candidate favored by Kericho’s local population—and openly backed by many Unilever managers—lost to the politician perceived to have support from minority tribes. The massacre was not confined to the plantation or to Kericho. More than 1,300 people died in postelection violence across Kenya.

Unilever said the attacks on its plantation were unexpected and therefore that it should not be held liable. But witnesses and former Unilever managers say the company’s own staff incited and participated in the attacks. They made these allegations in 2016 in written testimony after the case was submitted to a court in London. Anne and 217 other survivors wanted Unilever Kenya and its corporate parent in the United Kingdom to pay reparations. Among the claimants were 56 women who were raped and the family members of seven people who were killed.

In hundreds of pages of witness testimony and other court records and in interviews I conducted with Anne and another woman, the survivors describe how, in the run-up to the election, their colleagues threatened to attack them if the “wrong” candidate won. When they reported these comments, their managers dismissed their concerns, issued veiled threats, or made derogatory remarks of their own.

Former managers from Unilever Kenya admitted to the court that the company’s top management, including then-managing director Richard Fairburn, discussed the possibility of election violence in several meetings but only ramped up the security for its senior personnel, factories, and equipment.

Once the violence ended, Unilever shut down its plantation for six months and put its workers on unpaid leave. Many of the survivors had been robbed of all their belongings and were left only with unpaid hospital bills.

Unilever Kenya insists it is not responsible and blames the police for acting too slowly. Meanwhile, its corporate parent in London maintains that it owes the workers nothing and that the victims should sue the company in Kenya, not in the United Kingdom. But the workers say that a lawsuit in Kenya could spark more violence, including from their earlier assailants, some of whom still work at the plantation.

Since the survivors began their struggle for reparations, Unilever has donated millions of dollars to UN Women, the United Nations entity that promotes gender equality and female empowerment, and to feminist nongovernmental organizations, which release research papers and run media campaigns that paint the company as a corporate role model for its treatment of women. Unilever highlights these partnerships to assure employees and recruits that its businesses help eliminate poverty and boost women’s economic and social rights. The cornerstone of Unilever’s feminism is the idea that providing a woman like Anne with an income and giving her the confidence to “dream bigger” enables her to lift her family out of poverty.

Some of Unilever’s most influential beneficiaries among feminist groups appear to be swayed by the company’s charity and refuse even to discuss the massacre.

In 2018, a judge in the United Kingdom ruled that Unilever’s London headquarters could not be held liable for the failures of its Kenyan subsidiary. Now, Anne and her former coworkers are looking to the United Nations to step in—not to UN Women, which continues to celebrate the company as a feminist champion, but to the UN Working Group on Business and Human Rights, which is expected to decide, over the next few months, whether Unilever has failed to meet the United Nations’ guidelines for responsible business behavior. As Anne explained to me, “The company promised they would take care of us, but they didn’t, so now they should pay us so we can finally rebuild our lives.”

“...
To Anne’s distress, she found leaflets with hateful slogans like “Foreigners go home,” making her worry “something bad may happen.”

Unilever’s hilly tea plantation in Kenya’s southern Rift Valley covered about 13,000 hectares in 2007. With a population then of roughly 100,000 people, including about 20,000 residential workers and their families, and boasting on-site schools, health clinics, and social facilities, the estates are essentially a company town, and a cosmopolitan one: The workers belong to several ethnicities from across the country.

The Johnsons hailed from Kisii, a county two hours away from the Unilever estates, and identify as ethnically Kisii. On the plantation, the Kisiis made up nearly half the residents, but in nearby Kericho—the homeland of an ethnic group called the Kalenjins—they were a much smaller minority. And many people in Kericho looked down on the Kisiis and other “foreigners.” The plantation reflected this divide: The Kalenjins were mostly managers, and the Kisiis and other minorities worked primarily as tea pluckers.

Anne told me that before 2007, relations among the different ethnic groups had been fairly cordial. For her teenage daughters and 11-year-old son, the tea estates were the only home they’d ever known, the place where they were born, went to school, played with friends, and attended church. Anne said she felt proud to work for Unilever and appreciated that the London office regularly sent managers to make sure everything was OK. It made her feel like she was “part of a global company...that cared.”

Still, Unilever paid only 10 Kenyan shillings per kilo of tea leaves plucked, which made life challenging. It meant that Anne and Makori usually worked seven days a week for an average weekly wage of $37 and $52, respectively, and never had quite enough to pay their bills. “We reported for work at 6:30 in the morning,” she told me, “and often finished 12 hours later.”

The couple spent the last Sunday of December 2007 as they did any other day—in the field with a basket on their backs—though they expected the evening to be tense, since the election results would be announced in the late afternoon. Earlier in the week, millions of Kenyans had gone to the polls to elect either Raila Odinga, who led the Orange Democratic Movement (ODM), or Mwai Kibaki, of the Party of National Unity (PNU), as their new president.

Anne hadn’t voted herself. Weeks earlier, she had applied for leave to travel to Kisii, where she was registered to vote, but her manager declined the request, she said. This experience was common among the members of minority tribes, said Daniel Leader, a lawyer and partner at the London law firm Leigh Day, who represented the survivors in court and whose team interviewed all 218 claimants.

One of the survivors, a man who says a Unilever coworker and five other men attacked him with machetes, clubs, and swords, leaving him permanently disabled, and whose wife was raped by others, wrote in his statement that the supervisors “did not want us to go home because most of us were registered to vote locally. The only reason I was in the Kericho area at the time of the post-election violence was because of my work on the estate.”

The impending election had exacerbated tensions between Unilever’s Kalenjin workers and their more junior Kisii colleagues. “They assumed we Kisiis backed Mwai,” Anne explained, whereas the local Kalenjin population were overwhelmingly pro-Odinga.

In the weeks leading up to the election, survivors say ODM-supporting staff turned the tea estates into a fiercely pro-Odinga space, organizing political rallies and strategy meetings on the property. Anne told me that the perception of the Kisiis as Kibaki supporters led some Kalenjins to treat them with hostility. She said that team leaders, for example, began to allocate her job duties to non-Kisiis. Other coworkers stopped talking to her altogether. To Anne’s distress, she found leaflets with hateful slogans like “Foreigners go home” in the residential areas, making her worry that “something bad may happen after the election.”

Her fears were widely shared among the Kisiis on the plantation. A woman who asked to be called Mary told me that coworkers threatened to drive her out if Odinga lost and inquired about the value of her possessions, implying that they’d be stolen. In testimony submitted to the London court nearly a decade later, many other Kisiis claimed that they’d experienced similar xenophobic and intimidating treatment in the weeks before the election. According to one worker’s testimony, her Kalenjin colleagues told her that “Kisiis would be killed” if Odinga lost and that they “should start moving away before blood was shed.”

Anne was frightened but kept quiet. “The company is so big. I assumed they would protect us,” she told me. Those who felt less assured and who asked their team leaders and managers for protection were met with indifference, according to Mary and other survivors. In court testimony, many recalled how various managers ignored their pleas for more security or dismissed them by saying, “It’s just politics.” Other managers instructed the concerned workers to lobby and vote for Odinga, saying they would be “forced to leave” if they didn’t.

An estate manager admitted to the London court that Unilever Kenya’s senior management—including Fairburn, the managing director—had been aware that “there would be unrest and that the Plantation could be invaded.” They had discussed the need for extra
security in at least three meetings in December, he said. But management took measures only to “secure company property, factories, machinery, stores, power stations and management housing,” while “no thought was given to increasing the security of the residential camps in order to protect the workers.” Another former Unilever manager corroborated this claim.

Fairburn, who was allegedly present at the meetings, refused to comment on them when I called him. To this day, Unilever claims that it could not have predicted the attacks, even though the media in Kenya and internationally, including the BBC, Al Jazeera, The New York Times, and Reuters, had reported on the impending ethnic violence.

“Anyone who knew anything about the Kenyan election in 2007 knew it had the potential to end in significant and widespread violence, and that this violence would largely break down along lines of identity and affiliation,” said Tara Van Ho, who teaches law and human rights at the University of Essex. Both Unilever Kenya and its corporate parent in London should have known that the workers and their families were at risk, she continued. To protect them, she argued, Unilever could have hired extra security guards, trained its security personnel and managers, and solidified their buildings or evacuated residents for the period immediately surrounding the election.

When the news of Kibaki’s victory came on Sunday evening, Anne was preparing supper with her family. Moments later, she heard people screaming outside and knew they were in danger. “We quickly locked our doors,” she said.

That night, hundreds of men armed with machetes, clubs, kerosene jars, and other weapons invaded the plantation. They looted and burned thousands of Kisii homes—which they marked with an X—and attacked their inhabitants.

Court records paint a harrowing picture of what unfolded on the plantation over the next week. People were gang-raped and viciously beaten and saw their coworkers set on fire. When they fled for safety to the tea bushes, the attackers pursued them with dogs. Some claimants said the marauders yelled that “this wasn’t [our] land and that [we] should be killed or should leave.” Mary testified that she called her manager and pleaded for security but was told that she and her coworkers needed to “protect themselves” instead.

“We do not know the total number of people who were raped, killed, and permanently disabled,” Leader told me. He thinks the 218 claimants he represented are not the only surviving victims. “Many people are too scared of retribution or renewed attacks from colleagues who they continue to work alongside of,” he said.

Concern about violent reprisals was one reason the survivors wanted to sue Unilever in the United Kingdom. Another was that Leigh Day represented them for free, whereas in Kenya the survivors would not be able to afford legal counsel.

Leigh Day argued that its Kenyan clients had a right to sue Unilever in London, since UK law allows workers from international subsidiaries to sue the UK-based parent companies if, among other things, they can show that the corporate parent plays an active and controlling role in the subsidiary’s day-to-day management. Unilever, Leigh Day argued, clearly did.

Unilever’s lawyers nonetheless insisted that the victims should file their case in Kenya and suggested the tea pluckers “band together” and “raise funds from friends and family.”

Multiple victims said they recognized their attackers as Unilever colleagues and identified them by name in their witness statements. One woman told the court that, shortly before the election results were announced, she had seen coworkers “armed with pangas [machetes] and rungas [clubs]” roaming the tea estates, “threatening the Kisiis that if ODM does not win they will be forced to leave.”

“Anyone who knew anything about the Kenyan election in 2007 knew it had the potential to end in violence.”

—Tara Van Ho,
School of Law, University of Essex
The next morning, she was attacked by five of her colleagues, whom she knew by name. The men “started beating me with a metal rod on my back and on my legs and were going to rape me,” she stated in witness testimony, until “a Kalenjin neighbor who was a male nurse intervened to stop the attack.”

In court, Unilever denied that its own staff participated in the attacks. But when I asked Unilever representatives how the company knew this, they declined to comment further on the issue.

Unilever also refused to tell me the number of people it believes were attacked on its plantation and, confusingly, responded to another question with the claim that “93 percent of all people affected” had returned to work when the plantation reopened in 2008. The company wouldn’t clarify the figures that underpin this percentage or whether they include rape victims.

After the attackers left, the Johnsons fled and hid for three nights in the tea bushes before making their way to the police station in nearby Koiwa, covered in mud and blood. From there, police officers escorted them to safety, and the family was able to escape to Kisii, where they kept a small plot of land. Without savings, they could not afford the hospital costs for either their eldest daughter, who suffered severe injuries and got weaker by the day, or for Makori, who had internal bleeding. In the months that followed, both of them died in their mud house in Kisii. The rest of the family lives there to this day.

Anne said that the only communication she received from Unilever since the attacks was an invitation to return to work months later and a letter offering her about $110 in compensation. The letter suggests that this amount was set and paid for by Unilever’s corporate headquarters in London.

“On behalf of the entire Unilever Tea Kenya Ltd family,” it reads, “we thank Unilever for their understanding, material and moral support and we hope that this timely gesture will go a long way to bring normalcy back to our employees and their families.”

Anne told me she never returned to the plantation because she can’t leave her son, now in his mid-20s. “He developed very bad seizures and panic attacks after what happened and needs constant care,” she said. Severely traumatized and unable to afford the psychological treatment they need, her son and daughter both stopped going to school. “We live off gifts from relatives and neighbors and the little maize we grow on our land,” she said.

Mary told me that the attacks had left her family destitute and had led her children to drop out of school as well.

A male survivor who claims Unilever refused to pay any of his family’s medical bills told the court that the “wages I did not receive and the money which was stolen from my home I could have used to educate my children,” most of whom left school after the attacks. Permanently disabled and suffering from chest pains, the man said he “still cannot do any meaningful work that can support my children and my wife.”

The claimants say that Unilever owes them meaningful reparations, but Unilever insists it has already compensated them. The company’s spokespeople told me that it paid all of the workers who eventually returned to the plantation with cash and new furniture and has also offered their families free counseling and medical care. But they won’t say how much Unilever gave the workers or comment on the letter that Anne shared with me.

In the summer of 2018, Anne and a group of other victims rebutted these claims in a letter to Paul Polman, the company’s CEO at the time. “It’s not right that Unilever has said it helped us when we know that is not true,” the letter stated. It continued:

Unilever just wanted us to go back to work as if nothing happened [and those of us who did] were told we must not talk about what happened. We are still scared that we will be punished if we speak about the violence.

Unilever says that after the violence every employee was given “compensa-
tion in kind” to offset our lost wages and that we were given replacement items or cash to buy new items to replace our stolen property…but those who were too afraid to return got nothing and only some of those who returned were given KES12,000 [$110], a little more than a month salary, and a little maize, which was then deducted from our salary. We were told that if we saw people with our belongings we should say nothing.

Polman appears not to have responded to the letter, but he has asserted that the economic empowerment and “safety of women working across our supply chain [is] a top priority” in multiple brochures that the corporation published with UN Women between 2016 and 2019.

When you visit Unilever’s careers website, a talent-recruitment bot named Una may tell you, as she recently told me, that the company’s key values are “integrity, responsibility, respect and pioneering.” The career site may also assure you that by joining Unilever’s global team of 168,000 employees, “you can feel good about what you do…bring your purpose to life…and create a better world.” Are you passionate about racial equality and gender justice? Then Unilever wants to be the place for you.

A self-declared leader of a new global movement of feminist corporations, Unilever says its business model has proved that investing in female workers like Anne is both the moral and the economically smart thing to do. In the words of Unilever’s current CEO, Alan Jope, “The immutable laws of intersectionality mean that the better the job that we do for women of colour, the better chance we have of progressing gender equality everywhere.” Giving such women an income will boost their countries’ development, especially since female workers “re-invest 90 percent of their incomes back into their families,” Unilever alleges, whereas their male counterparts spend most of their money on themselves.

Unilever has won plenty of awards and commendations for its support for female workers. Oxfam, CARE International, Women Deliver, and the International Center for Research on Women all hold it up as the feminist corporation par excellence and praise its top male executives as allies.

UN financial records show that soon after the Kenyan workers filed their case against Unilever, the corporation bumped up its yearly contributions to UN Women, from less than $40,000 in 2015 to more than $1 million a year since. Unilever applauds UN Women on its website and in conferences for helping it achieve its goal “of empowering 5 million women workers by 2020” and protecting the rights and safety of female tea pluckers. Similarly, UN Women’s website, social media pages, brochures, and annual reports celebrate Unilever and its CEOs—first Polman and then Jope—for their moral leadership.

One project the two organizations teamed up for is a “safety manual” that draws on Unilever’s expertise to teach other companies to “encourage all women and girls to be more aware of their surroundings; teach our future female leaders to educate to be less sexist; men get lessons in gender justice.

The picture of Unilever that emerges in UN Women’s brochures looks nothing like the corporation that Anne and others fought in court. UN Women portrays Unilever in the same way that the company’s PR and recruitment departments do—as a feminist-minded corporation that goes beyond its legal obligations to keep women safe.

Research on Women all hold it up as the feminist corporation

and crisis management policies.

A much tougher burden of proof fell on Anne and the other survivors when they had to prove their treatment by Unilever to the London court. Under UK law, a parent company can only be held liable for the health and safety breaches of its subsidiaries if it exercises a high degree of control over their safety and crisis management policies.

To prove to the court that the UK parent company did indeed exercise such control over Unilever Kenya, Leigh Day submitted witness statements from former workers, who testified to the frequent visits made by London managers, and from four former managers, who gave evidence that the head office shaped, supervised, and audited the safety

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The attempt to police a Christopher Hitchens biography is both futile and foolish.

BY DAVID NASAW

LET A THOUSAND BIOGRAPHIES BLOOM
Dear Family, Friends, Colleagues, Fellow Scribblers, Brothers & Sisters, Comrades:

We are aware that a self-appointed would-be biographer, one Stephen Phillips, is embarked on a book on Christopher. We read his proposal and are dismayed by the coarse and reductive approach. We have no confidence in this attempt at the man in full. We are not cooperating and we urge you to refuse all entreaties by Mr. Phillips or his publisher, W.W. Norton.

Feel free to contact us with any questions as you may have.

In solidarity,
Carol & Steve

Carol Blue-Hitchens, Executor of the Estate of Christopher Hitchens
Steve Wasserman, Literary Agent

What are we to make of this?

As I have never met, at least as far as I can recall, any of the principals involved—neither the deceased, nor his widow, nor Steve Wasserman, nor the “self-appointed would-be biographer”—my intervention here is purely as a biographer and historian.

There is no doubt that Christopher Hitchens deserves a biography—and a good one. The historical record of the times he lived in and commented on—acerbically, stubbornly, vibrantly, sometimes recklessly, in writing and in person, graciously or boorishly, but always with a magical, musical, majestic command of the English language—would be incomplete without one. But who gets to decide who shall write his life?

Some subjects, as diverse as Ronald Reagan and Philip Roth, choose their biographers during their lifetimes. (The Reagan choice didn’t turn out particularly well, for either subject or biographer; we still await the Roth biography.) Others give their living consent, when asked for it, albeit with strings attached. In 1981, George F. Kennan, then in his late 70s, agreed to cooperate with John Lewis Gaddis, with the stipulation that the biography be published after Kennan’s death, which both men assumed was on the horizon. Gaddis took on the assignment, began to research and write in the early 1980s, then moved on to other projects. “Poor John Gaddis,” Kennan remarked in 2003, “has seen his undertaking being put off for years while he waits for me to make way for it.” Kennan died in 2005 at 101; Gaddis’s biography would not appear until 2011, 30 years after he had secured Kennan’s agreement.

Other historical and literary figures, fearful of how their lives might be represented—or misrepresented—have gone out of their way to block any future biographers’ access by destroying everything that might be of use to them. Samuel Johnson, Charles Dickens, Wilkie Collins, Henry James, Thomas Hardy, and Sigmund Freud burned their correspondence and manuscripts. Freud was 28 when he lit his first bonfire. “I have just carried out one resolution,” he wrote Martha Bernays, whom he would soon marry, “which one group of people, as yet unborn and fated to misfortune, will feel acutely. Since you can’t guess whom I mean I will tell you: they are my biographers. I have destroyed all my diaries of the past fourteen years, with letters, scientific notes and the manuscripts of my publications…. Let the biographers chafe; we won’t make it too easy for them.” Needless to say, none of these gentlemen succeeded in thwarting their future biographers, of whom there would be many.

For many biographers, it is not their subjects but their widows, children, and literary executors—characterized by Michael Holroyd as “baffled and besieged tragic-comic figure[s]”—who, standing guard over the deceased’s reputation, pose the most immediate and immovable barriers.

Virginia Woolf, trying to understand why so many 19th century biographies turned out to be so dreadfully, ornately in awe of their subjects, blamed the widows. “Suppose,” she wrote, “that the man of genius was immoral, ill-tempered, and threw the boots at the maid’s head. The widow would say, ‘Still I loved him—he was the father of my children; and the public, who love his books, must on no account be disillusioned. Cover up; omit.’ The biographer obeyed.”

We do not know the full story of why Blue-Hitchens and Wasserman object to “one Stephen Phillips” as Hitchens’s “self-appointed would-be” biographer. They were quite possibly already sensitive and suspicious, and

“Suppose that the man of genius was immoral, ill-tempered, and threw the boots at the maid’s head.”

—Virginia Woolf

David Nasaw, who recently retired as the Arthur M. Schlesinger Jr. Professor of History at the CUNY Graduate Center, is the author of numerous biographies.
rightly so, after the publication of an earlier book about Hitchens which claimed, without any real evidence, that he was a bit of a hypocrite, less of a committed atheist than he purported to be, and on his deathbed “was weighing the costs of conversion.” Hitchens of course predicted that such would be said of him after his death and insisted that no one should believe such nonsense. Still, the book was written and respectfully received and reviewed—before being eviscerated by David Frum in The Atlantic.

In their widely circulated e-mail to “Family, Friends, Colleagues, Fellow Scribblers, Brothers & Sisters, Comrades,” Blue-Hitchens and Wasserman write that they were “dismayed by the coarse and reductive approach” in Phillips’s proposal. But proposals call for “reductive” approaches. And what is meant by “coarse”? They also call into question Phillips’s credentials and competency by referring to him as a “self-appointed” biographer, but aren’t most, if not all, writers of biography, fiction, history, and poetry self-appointed?

**What we can infer from their refusal to cooperate with or respond to the “entreaties” of this “self-appointed” biographer and his publisher, W.W. Norton, is that they prefer a biographer who has been appointed, no doubt by them. In publicly discouraging the publication of a book that has not yet been written because they do not think much of the proposal, they are playing a zero-sum game. Either they will succeed in dissuading Phillips and Norton from moving forward or, more likely, the biography will be published and the publicity generated by their opposition will create the sort of buzz that marketers dream of.

The larger question is not whether they are acting judiciously, but whether their actions—and similar ones by other executors—do a disservice to those of us who wish the historical record to be as close to complete, as complex, as stirred-up and muddied as possible.

Hitchens does not belong to his widow or to Wasserman. His running commentary on American cultural, political, and social life; his enthusiastic—if sometimes, to my mind at least, unhinged—support for the American war in Iraq; his firsthand accounts of being waterboarded and getting a Brazilian bikini wax; his unapologetic, almost celebratory defense of his Brobdignagian drinking and smoking; his unsparing insistence that “God is not great”; his friendships and feuds (serial and simultaneous); his incendiary and still-compelling indictment of Henry Kissinger; his takedowns of Bill Clinton (the “white whale”), Mother Teresa (“a thieving, fanatic Albanian dwarf”), the “Queen Mum,” numerous dictators and potentates, and Donald Trump, who, he conceded, though a “ludicrous figure,” at least had “worked out how to cover 90 percent of his skull with 30 percent of his hair”; and his final thoughts on being consigned to “tumourville” by the esophageal cancer that killed him stand on their own, but our understanding of what he said and wrote, and why, would be immeasurably enriched by a study of his life.

Because Hitchens wrote and said too much, too well, on too many subjects, it will be impossible for any single biographer to accurately or adequately fit his life into his times, and vice versa. Difficult as it might be for a biographer to admit, there is no such thing as a “definitive” biography. Every biographer captures a bit of the truth, never the whole. The lives we write are not the lives that were lived, but constructions, approximations, intimations. Biography is not an accurate reflecting mirror of a life once lived, but a distorting, fun-house one. And that is why the more biographies we have of an individual, the closer we may get to her or him. I have read many bad biographies in my day, but on reflection, even the worst of them told me something, not only about the subject’s times but about the writer’s, and about the passions evoked and controversies set ablaze by past lives, thoughts, words, and actions.

Blue-Hitchens and Wasserman are well within their rights to refuse to cooperate with this particular biographer, but by reaching out, as they have done, to so wide a universe of individuals who might have something to say on the subject, they are engaging in a sort of preemptive censorship, intended to frighten away not just this one writer but any others who might not, for one reason or another, pass muster with them.

We don’t get any closer to understanding a life and its times—which are our times—by restricting access to those who might wish to examine and interpret them.
they failed to instruct managers on how to respond to such emergencies when they actually happened, according to the managers. This policy flaw explained why, in the words of one, “I was left to deal with the crisis on my own.”

This testimony seemed to support Leigh Day’s claim that the London headquarters shared liability. Yet to prove it to the court, the law firm needed access to the actual text of the protocols that the managers described. However, since these were pretrial proceedings—meaning that the court had not accepted jurisdiction—Unilever had no duty to disclose relevant materials and simply refused to hand over the documents.

The judge’s ruling made clear that the “weakness” of their evidence played a major role in her decision to deny the Kenyans jurisdiction. Human rights scholars and corporate accountability advocates condemned the ruling. The court had created a catch-22 for the workers, Van Ho observed: “The claimants couldn’t get the documents that showed Unilever UK did something wrong until they had the documents that showed Unilever UK did something wrong.” It’s “dizzying,” she said, and “an unfair expectation for employees who have a lot less power than the multibillion-dollar company that employed them.”

UN Women would not comment on Anne’s case. The group continues to uphold Unilever as a feminist champion and has even hired a former Unilever partnerships director for a senior position, in which she advises other multinational corporations on how to make their supply chains more feminist. In a recent webinar by UN Women and Amfori BSCI—a controversial trade group that counts corporate giants like Amazon among its members—she encouraged the BSCI members to approach women’s rights and safety as her former employer does: as a business opportunity that can benefit rather than hurt the bottom line. She assured them that by partnering with UN Women, the companies could pick priorities that match their growth objectives and then monitor their own progress. In presenting her case for UN Women partnerships, she remarked that the business should use these projects to attract young talent, many of whom “want to understand [they are] in a good company.”

A UN Women spokesperson explained that the webinar’s “business case” was based on research by McKinsey, Accenture, Bank of America, and the International Labor Organization.

Recently, feminist political economists like Genevieve LeBaron, Adrienne Roberts, and Sofie Tornhill have criticized corporate alliances of this kind, pointing out that they provide businesses with unearned PR while cheapening and distorting feminist ideals and principles. “The huge empowerment claims of these programs, and their overwhelmingly positive impact claims, sharply contrast with the extremely precarious and vulnerable positions that many of their supposed beneficiaries occupy and conceal their daily struggles,” said Tornhill, the author of The Business of Women’s Empowerment. “They can also undermine the impact of women’s rights groups who critique corporations and practice solidarity with women who have been exploited or otherwise abused by corporations. By elevating the voices of CEOs and their intentions, organizations like UN Women end up erasing the voices of women they claim to stand for.”

One such form of erasure was on display in 2019 during Business Fights Poverty, a Unilever-backed corporate responsibility conference held at the University of Oxford that attracted NGOs, UN staff, academics, and businesspeople. In an afternoon panel discussion about gender-based violence in supply chains, a manager from Unilever spoke at length about how the company helps prevent attacks on its tea plantations and supports female workers. Not once did she mention the mass rapes and killings of the company’s tea workers in Kenya.

To correct this incomplete picture for the audience, I asked the Unilever manager during the Q&A session if she could speak about the allegations made by the Kenyan workers. The manager explained that her legal department wouldn’t let her but allowed me to share my version with the audience. Yet when I did, the moderator—a senior economic adviser from CARE International, which receives funding from Unilever—cut me off and told me that this “was not related to our current conversation.” It was a telling statement, given that the topic of discussion was precisely violence against women on tea plantations.

Anne said she remains hopeful that international human rights advocates will support her cause. With other victims, she recently filed a complaint against Unilever at the United Nations, arguing that the company violated the UN Guiding Principles for Business and Human Rights. One requirement is that companies must ensure that victims of human rights abuses in their supply chain have access to remediation. Van Ho anticipates that the UN body, which is expected to reach a decision soon, will agree that Unilever breached these guidelines. “Hiding behind legal loopholes and refusing to disclose relevant information to avoid paying reparations is the exact opposite of what the Guiding Principles prescribe,” she said.

Though the United Nations can’t force Unilever to pay up, Anne hopes the case will generate the attention and public pressure necessary to push the company in that direction. When asked what it would mean to her if the workers succeed in their efforts, she told me, “It would be the greatest moment in my life.”
When Donald Trump took office in 2017, he installed a number of pro-business appointees to lead federal agencies tasked with protecting workers’ rights. But for the first two years of his administration, things continued more or less as normal at the Equal Employment Opportunity Commission, the country’s sole workplace civil rights watchdog. Ami Sanghvi, now a lawyer at the Marek Law Firm, started as a trial attorney at the EEOC just after Barack Obama became president. Yet even during Trump’s first two years, she said, the agency was able “to do pretty great work.”

Then, in May 2019, corporate lawyer Janet Dhillon was sworn in as Trump’s choice for the EEOC’s chair, and Sanghvi soon found the kinds of cases she could pursue restricted. It’s part of why she decided to leave the commission and go into private practice in January 2020.

The change in approach when Dhillon took over “was like 180 degrees,” said one former EEOC official employed at the agency at the time. He recalled describing a big victory—a multimillion-dollar resolution in a difficult case—to her. “It was met with a cold stare and dead silence.”

Dhillon has since pushed through a number of changes that two people currently at the EEOC and six former EEOC employees, as well as many in the civil rights community, warn will bring the gears of justice at the commission grinding nearly to a halt. And while, as president, Joe Biden will be able to quickly reverse many of Trump’s actions, those made at the EEOC could last well into his administration.

“We need stronger enforcement, not weaker,” said Jenny Yang, who served as the EEOC’s chair from 2013 to 2018 and is now a senior fellow at the Urban Institute. Dhillon’s changes, she added, are “designed to weaken enforcement very intentionally.”

The clearest impact of Dhillon’s agenda has been on the pace of litigation. The EEOC filed just 93 lawsuits in fiscal year 2020, compared with 144 the year before and 199 in fiscal year 2018. And while the pandemic would have reduced the number of cases in any event, two sources within the commission attributed some of the drop directly to Dhillon’s actions.

With the EEOC pursuing fewer cases, there are fewer people getting timely justice. “If you were fired for some discriminatory reason, if you left your job because of sexual harassment, that is usually an emergency in your life,” said Emily Martin, vice president for workplace justice at the National Women’s Law Center. “Further slowing those processes means that the people who are really depending on the EEOC to help solve this emergency in their life are going to be out of luck.” And those without the means to hire a lawyer could have no recourse at all.

“This is a crucial time for the EEOC. We’re at a historic moment,” said Gaylynn Burroughs, senior policy counsel at the Leadership Conference on Civil and Human Rights. The MeToo movement shined a bright light on sexual harassment, and the Black Lives Matter protests reignited a conversation about racial discrimination. “This is where the
EEOC’s mission is most important. So the idea that they could be hamstringing themselves is very concerning.”

Kimberly Smith-Brown, an EEOC spokeswoman who responded to queries for this article (and has since left the job), rejected the charge that Dhillon has undermined the agency. “The EEOC’s ability to fulfill its mission to prevent and remedy employment discrimination has not been hampered,” she said.

Prior to arriving at the EEOC, Dhillon spent her entire career in the private sector. After graduating from law school, she practiced at the corporate law firm Skadden, Arps, Slate, Meagher & Flom for 13 years, then served as general counsel for US Airways Group, J.C. Penney, and Burlington Stores.

In April 2019, after Dhillon’s nomination to the EEOC, a coalition of 30 business groups, including the National Federation of Independent Business, the National Restaurant Association, and the US Chamber of Commerce, wrote a letter to Senate majority leader Mitch McConnell urging him to get her confirmed. The letter included a list of items the signers wanted to see enacted at the agency, including easing a requirement that businesses report pay data by race and gender. Years earlier, the Chamber had argued that the EEOC should try harder to resolve cases before filing litigation and should also narrow who has the authority to green-light lawsuits.

Democratic Senator Patty Murray opposed Dhillon’s nomination from the start. “I really felt her experience and priorities ran contrary to the mission of the EEOC,” she told me. “Unfortunately, she has led the EEOC the same way that she came to it.”

Not long after she took over the agency, Dhillon issued a list of her priorities, including that “litigation is truly a last resort.” Seyfarth Shaw, a corporate law firm that represents the Chamber of Commerce, noted at the time that this appeared “to signal a shift away from the Commission’s litigation efforts,” a development it called “welcome and long-awaited.”

Seyfarth Shaw was right. Under Dhillon, the EEOC “is really trying to implement the Chamber of Commerce agenda,” said David Lopez, who served as the commission’s general counsel from 2010 to 2016 and is now co-dean of Rutgers Law School. “I never thought I’d say this in the context of the EEOC, but it almost becomes a case of industry capture by the business community.”

Advocates for workers have criticized the way other worker-focused agencies, including the Department of Labor and the National Labor Relations Board, have reflected the ideology of the Trump administration. But the EEOC is politically independent and has historically remained above the fray. Even Republican chairs, such as Obama nominee Victoria Lipnic and President George W. Bush’s nominees, Naomi Earp and Cari Dominguez, “were enforcing the law,” Lopez said. “They supported the work of the litigation units in the field.”

Dhillon has also departed from history in the way that she’s pursued her agenda: hastily and with little input from others. She announced two nationwide pilot programs to her fellow commissioners right before holiday weekends last year, and one was implemented at the start of the next workweek, according to a current EEOC official. Commissioner Charlotte Burrows said in a statement at the time that she and Lipnic, then the only other commissioner, weren’t provided “so much as a courtesy copy” of the pilots before they were enacted.

Smith-Brown disputed this, saying, “Commissioners and their staff receive ample opportunity to review matters put to the Commission for a vote.” But the pilot programs never received a vote and were instead instituted unilaterally by Dhillon. One of them made changes to the commission’s mediation process—an early, voluntary settlement process for narrower cases—while the other changed its conciliation process, a mandatory procedure the EEOC undertakes to try to resolve cases before suing employers in court. Both programs were rolled out on a nationwide basis immediately, and even before the conciliation pilot had ended and its results were analyzed, Dhillon issued a notice of proposed rulemaking (NPRM) to make similar, but permanent, changes to the conciliation process. “The fact that they didn’t even wait for results shows that the chair doesn’t really care about the results,” said David Wachtel, a partner at Trister, Ross, Schandler & Gold and a member of the National Employment Lawyers Association. “She just wants this to happen.”

Stakeholders in the civil rights community, such as the National Women’s Law Center and the Leadership Conference on Civil and Human Rights, say they hadn’t been consulted about the pilot programs or promised a role in evaluating them. They haven’t even been assured that they’ll be told what the outcomes are.

That contrasts starkly with, to cite one example, the process the agency followed during the Obama administration to determine whether and how it should collect pay data by gender and race. According to a former EEOC official who was there at the time, the agency conducted “extensive” studies to determine what data to collect, what should be done with it afterward, and whether it should be collected at all. Commissioners also solicited and incorporated input from the agency’s career staff. “I don’t see that happening here,” the official said.

“I’ve just never seen what I would call a steamrolling of major changes like this,” said Carolyn Wheeler, senior counsel at Katz, Marshall & Banks, who spent over three decades at the EEOC, including as as—

“This is a crucial time for the EEOC.... So the idea that they could be hamstringing themselves is very concerning.”

—Gaylynn Burroughs,
Leadership Conference on Civil and Human Rights

The Trump effect:
Trump’s pick for EEOC chair, Janet Dhillon, spent her entire prior career in the private sector.
One of the first changes at the EEOC after Dhillon’s appointment was a pause in the consideration of cases arguing that discrimination on the basis of sexual orientation or gender identity is illegal under Title VII of the Civil Rights Act of 1964, which bans sex discrimination, said a former EEOC official who was there at the time. While Smith-Brown denied that Dhillon gave such an instruction herself, she did note that EEOC general counsel Sharon Gustafson has that power, though she did not respond to a question as to whether Gustafson issued a directive.

The EEOC had been bringing such cases since 2015. But in 2019, Trump’s Department of Justice file a brief in the Supreme Court case Bostock v. Clayton County arguing that Title VII does not cover sexual orientation, contrary to the EEOC’s position at the time. After Dhillon took over, attorneys were told that until the Supreme Court made its decision in Bostock, they wouldn’t be given the authority to pursue litigation along those lines. The court ultimately ruled in favor of the plaintiffs, affirming the EEOC’s earlier position, but a current EEOC official noted that the commissioners still have not voted to file a single sexual orientation discrimination case.

Dhillon also turned her attention to the measure to collect payroll data by gender and race. In 2016, the EEOC announced that it would collect and publish aggregated data on these pay gaps. But when the Trump administration came in, the Office of Management and Budget abruptly halted it. A court later forced the EEOC to collect that data for two years. Yet Dhillon decided not to seek a renewal of that authority, stopping the effort dead in its tracks.

Dhillon also made a significant change in how the agency files lawsuits. Historically, the EEOC’s lawyers and general counsel have been able to decide on their own whether to bring most lawsuits against employers; the commissioners voted only on the most controversial or costly ones. But one of the first things Dhillon sought when she assumed her role was to have the entire commission vote on whether to bring litigation in every single case. When that generates heated opposition, she announced instead that every case will come before the entire commission, but routine cases will get a full vote only if a majority of the commissioners requests one, according to a current EEOC official. That means the current Republican majority on the commission will have the power to call a vote and shoot down cases it doesn’t like.

The result, according to a long-serving EEOC attorney, is that more litigation is getting voted down than ever before. The current EEOC official is confident that the conservative commissioners won’t decide in favor of any sexual orientation discrimination cases. Gustafson even determined that being denied leave for a disability, a form of discrimination previously recognized by the EEOC, is permissible under the Americans With Disabilities Act and that no more of those cases would be brought, according to a former EEOC official with direct knowledge of the decision. And sexual assault cases are being met with skepticism toward the claimant’s story, he added.

The agency disputes the latter claim. “It is absurd to suggest that the Chair does not support the EEOC’s role in combatting sexual harassment,” Smith-Brown said, noting that the agency filed 57 sexual harassment suits in the past two years.

In the cases that Dhillon has voted on publicly, she voted against a number of disability and age discrimination cases. In one case she voted against, African American employees at a manufacturing plant alleged racial harassment that included a white employee dangling a noose in front of a Black coworker.

In another, a Chipotle manager said she was fired after being sexually assaulted at work twice in one day. Dhillon was outvoted in both of these cases, but that was before the arrival of two new Republican commissioners, who have so far voted in lockstep with her.
Typically, commissioners review and vote on 20 to 30 cases in a year; under Dhillon’s changes, they may have to look at hundreds. “The impact on the staff is enormous,” Wheeler said. The changes could delay for months cases that would have normally breezed through. Worse, EEOC staff may decide it’s not even worth trying to get litigation approved if the Republican commissioners continually vote it down and may try to settle cases instead—though without the threat of litigation, the settlement amounts will almost certainly drop.

It was precisely this logjam that President Bill Clinton’s administration sought to address when it allowed the EEOC’s regional attorneys to make litigation decisions about routine cases, restricting the commissioners to reviewing litigation only if it was controversial, would potentially make new law, or involved a large class of people. Lopez was there before the Clinton-era change was made. “It was not uncommon [then] for cases to sit for six, seven, eight months” before the commission decided to take them, he said. That meant many claimants decided to settle for low amounts or hire their own attorneys to pursue the cases.

Dhillon’s policy also means that commissioners who are not well versed in the cases will make determinations about them. “You get this crazyland world where you have...bureaucrats in Washington second-guessing factual determinations by people who have actually interviewed the witnesses and know the courts they’re dealing with,” Lopez said.

One of Dhillon’s most significant changes came through her mediation pilot program. Before, certain kinds of complaints—ones that were potentially larger and more systemic—were exempt from the mediation process, which seeks to reach a settlement before further investigation. The exemption ensured that complaints that might uncover larger, more widespread problems received a thorough inquiry. But now, if both parties agree, those cases too are funneled to mediation before an investigation takes place. A sign-off from headquarters can allow a case to bypass mediation, but to date that’s happened rarely or never, according to a current official. When I asked the EEOC press office for data on the total number of cases that have been sent to mediation due to the pilot program, the response was unhelpful:

“We will continually be evaluating the results of the mediation pilot, but will not be sharing any metrics at this time.”

As a result, important cases can now wither or fade away entirely in the mediation process. In mediation, the EEOC representative must remain neutral, not act as an advocate for the claimant. Many claimants will go into it facing an employer represented by a big law firm, without any legal representation themselves. Most people will therefore likely take whatever money is offered without knowing they might be able to fight for more. "You’re going to have just extreme power imbalances," Lopez warned. Worse, many of the settlements are kept secret through nondisclosure agreements, and employers can insert no-hire clauses that bar claimants from ever being hired by them again.

Mediation also does not allow for investigating whether other people were discriminated against by the same employer, nor does it allow requiring large-scale changes to root out discrimination. If all cases enter this process, many that could have uncovered abuses on a wider scale will instead remain narrow. Had the EEOC case against Abercrombie & Fitch for refusing to hire someone who wears a hijab gone into mediation instead, it likely wouldn’t have resulted in a Supreme Court decision affirming the right to an accommodation for religious clothing for all, Lopez said. The woman at the center of the PBS documentary Rape on the Night Shift, Erika Morales—a janitor who spoke up about the sexual harassment and assault she experienced at the hands of her supervisor—likely wouldn’t have been able to pursue a larger case if she had been pushed into mediation. Instead, the EEOC investigated her claim and discovered 20 more women at the same workplace who’d been similarly harassed and assaulted.

“Sending virtually every claim to mediation, regardless of the scope or severity of the discrimination at issue, would be a grave injust-
Fighting discrimination: Gerald Bostock, whose Supreme Court case affirmed that sexual orientation and gender identity discrimination are illegal under the Civil Rights Act.

“I’ve just never seen what I would call a steamrolling of major changes like this.”
—Carolyn Wheeler, former assistant general counsel of the EEOC

A letter the EEOC Investigates a Claim
and finds that an employer probably broke antidiscrimination laws, it enters conciliation, a mandatory discussion with the employer to try to come to an agreement before the commission pursues a lawsuit. Diane King, a labor-side employment lawyer at King & Greisen in Denver, has gone through the process many times. Before Dhillon’s conciliation pilot program began, all of the parties—King, her client, the EEOC investigator, and the employer—would gather and discuss the case and how it might be resolved without litigation. Employers took it seriously, King said. “A lot of those cases did settle.”

But this past year, when she got to that step in one of her cases, she found the process had changed without notice. Instead of a meeting with all of the parties, the EEOC investigator simply acted as a go-between, and the negotiation took place in “a black box,” King said.

Her client in the case is a woman who worked for a water utility—a nontraditional job for women—for about five years before being sexually harassed so much “she basically had a breakdown,” King said. The woman couldn’t return to work and lost, in King’s estimation, hundreds of thousands of dollars in foregone wages. She had to sell her house and is currently couch-surfing while she finds somewhere to live. She hasn’t been able to maintain another job since.

The employer made “a really bad” offer, King said: $20,000 for years of harassment. The EEOC investigator urged her to accept it. King refused. So the case will now likely go to litigation, the outcome conciliation is meant to avoid. Her client has already been waiting four years to get some justice. Now she’ll have to wait even longer.

King would rather settle before a case goes to litigation, a process that “uses so much resources on both sides,” she said. But she felt that the new conciliation process made reaching a settlement even harder. Dhillon’s pilot program has “been just a colossal failure,” King said.

Earlier, the EEOC had won a significant victory for its conciliation process. In 2015, the Supreme Court ruled unanimously in the EEOC’s favor in a case called Mach Mining v. Equal Employment Opportunity Commission. After receiving a complaint of gender discrimination, the EEOC found that the mining company had never hired a woman for a mining position. But when it brought a lawsuit against Mach Mining, the company fought back by saying the EEOC hadn’t adequately tried toconciliate the case.

Before Mach Mining, “every single case” would end up in a similar fight over whether the EEOC had tried enough to conciliate, rather than on the merits of the case, said Lopez, who was at the commission at the time. “It almost felt like malpractice if they didn’t try to challenge the EEOC’s conciliation.”

The EEOC fought the Mach Mining case on those procedural grounds for four years before getting the Supreme Court decision and eventually securing $4.25 million for female applicants. But the upside was the court found that there were no hard-and-fast rules for how the EEOC had to conciliate, which put an end to those fights over procedure.

Now, Dhillon is undoing that win. The Retail Litigation Center, a pro-business group she helped found, had filed a friend-of-the-court brief siding with Mach Mining in the Supreme Court case. And from her current perch in the EEOC, not only has she decided to impose conciliation rules, but she’s gone even further. Under her pilot program, EEOC investigators are required to give an employer virtually all of the information they used to determine that it broke the law, including the EEOC’s legal theory of the case, as well as any potentially exculpatory evidence, including anything that “raised doubt” about whether discrimination occurred. Beyond potentially violating attorney-client privilege, “we’re turning over things that really border on attorney work product,” which is typically protected from disclosure in any lawsuit, a long-serving attorney at the EEOC said.

“This is the EEOC snatch[ing] defeat from the jaws of victory and saying, ‘Let’s tie our own hands,’” Martin observed.

This has serious consequences for those seeking justice through the EEOC. It’s harder to get “a good result for the employee,” Martin said, because employers have “greater leverage without any comparable leg up for the employee.” With all of this new information, employers can be much more confident about finding a minimum amount that can make the case go away. And if they don’t settle, “employers will have this huge leg up in the eventual lawsuit,” Wachtel said.

Another important change to the conciliation process that has yet to be made public, which the EEOC spokeswoman and sources inside the agency confirmed to The Nation, is the institution of limits on the damages investigators can seek in conciliation without approval from headquarters. The amount of money the EEOC can ask for is already quite low: In 1991, Congress imposed caps on damages (for the largest employers, they can come to only $300,000), and those figures have never been updated. Now, above a certain percentage of those potential damages, an investigator
has to get approval from the regional office; to get the full amount, the investigator has to go to headquarters. Smith-Brown confirmed the change, saying that the pilot program “adds a requirement that conciliation offers be approved by the appropriate level of management… before the offers are shared with employers” and noting that the level of approval required increases with the size of the damages. “This is appropriate,” she added; “larger cases should have more oversight.”

But this incentivizes investigators to seek lower amounts in conciliation to avoid having to run requests up the flagpole. And making the case to headquarters requires even more time. “There’s no question that would slow things down,” Sanghvi said. She noted that during her tenure at the EEOC, she never saw headquarters involved with approving how much investigators asked for in damages. “The level of second-guessing is crazy,” Lopez said; determining what damages to seek “are really ground-level decisions,” based on the level of emotional distress a claimant has experienced and how a jury might evaluate the claimant’s and the employer’s conduct. But the new caps apply to all cases, no matter how severe the wrongdoing.

Before the pilot program ended, Dhillon proposed making permanent changes to the conciliation process through regulation. Her original proposal took most of the pilot program’s changes and went further, requiring investigators to unveil the names of witnesses, even those who wished to remain anonymous and who may still be working for the employer. “You have to have witnesses in these cases,” King noted. “You rarely have smoking-gun documents,” so their testimony is crucial. But “once the word gets out that their confidentiality is not protected by the EEOC, I can’t imagine they’re going to get near it.” Workers know that retaliation is a real threat. The EEOC consistently receives more retaliation claims than any other kind.

In last-minute negotiations over the final version of Dhillon’s NPRM, this requirement was dropped, as was the requirement that investigators hand over privileged information, according to a current EEOC official. But investigators will still have to give employers a written summary of the facts that led them to believe discrimination occurred and the legal basis for potential litigation, as well as an explanation of what kind and size of case it might be. That risks protracting the process of determining whether illegal discrimination occurred and hanging up a case instead over arguments about whether the EEOC followed the right procedure, similar to what it faced before Mach Mining. “It will lead to expensive and needless litigation,” Burrows said during the final debate over the rule, which “will divert limited, precious resources away from fighting discrimination.”

The argument in favor of creating the new rule is that it will entice more employers to enter conciliation and lead to more settlements. But there’s little evidence to back that up. The EEOC recently completed an internal analysis of hundreds of failed conciliations and found the two primary reasons they didn’t work were because employers declined to participate and because the parties couldn’t agree on a monetary figure. And, of course, Dhillon pushed forward with the permanent rule before her pilot program could be analyzed.

The conciliation pilot is ongoing: Dhillon unilaterally extended it as it was about to expire in November. That, however, can be easily reversed by a new chair. But the final NPRM is “really going to tie our hands,” the regional attorney said. Already overworked investigators will have less time to devote to uncovering discrimination. Operating under Dhillon’s pilot program, many are doing everything they can to get justice for a claimant without finding cause so they don’t have to go through the new processes, according to the current EEOC official. The changes mean that “we’re not going to win in conciliation,” King said. “It gives you one less tool.”

Even with the new demands placed on EEOC staff, their ranks have thinned. There were 1,939 full-time employees in fiscal year 2020, a decrease from 2,060 in 2019 and the lowest level since 1980, even as the country’s workforce has grown. Despite the agency receiving budget increases—the first since 2014—in both 2018 and 2020, Dhillon made it clear she didn’t want to spend money on hiring staff, according to a current EEOC official. She has been “very sparing” in spending money to hire the staffs that carry out litigation, the regional attorney said. “It’s been a trickle.” She is also “very intentionally starving” the general counsel’s office, according to a former EEOC official.

But that’s not what Congress instructed. “Congress allocates money. We’re the power of the purse,” said Murray, the Democratic senator from Washington state. She noted that Congress gave the EEOC more money in the wake of the Me Too movement so it could better address workplace harassment. “If you have someone like Chair Dhillon…using it for something else, she’s skirting what Congress, which is the will of the people, has asked her to do.”

Smith-Brown pointed out that the agency hired more than 300 employees in fiscal years 2019 and 2020, Dhillon made it clear increases—the first since 2014—in both 2018 and 2020. Despite the agency receiving budget increases—the first since 2014—in both 2018 and 2020, Dhillon made it clear she didn’t want to spend money on hiring staff, according to a current EEOC official. She has been “very sparing” in spending money to hire the staffs that carry out litigation, the regional attorney said. “It’s been a trickle.” She is also “very intentionally starving” the general counsel’s office, according to a former EEOC official.

A failure to hire enough attorneys and investigators winnows the agency’s capacity. When Dhillon visited a field office and an attorney told her they were having a hard time litigating cases with so little staff, she responded that they should file fewer cases, according to a former EEOC official.

*Sources I spoke to thought that Dhillon was rushing changes through in an attempt to get them finalized before the presidential election.*

**Lopez sees a clear pattern in Dhillon’s changes:** “The bottom line is they don’t want to litigate.” That would take the EEOC back to its inception, before Congress gave it litigation authority in 1972, recognizing that the agency wasn’t effective without it. Without a serious threat that the EEOC will sue, the deterrent effect disappears. “The agency has no real credibility in anything it does unless the employer community believes it will litigate,” Wheeler said. The changes are...
“certainly affecting our ability to litigate in the public interest and to go after discriminating employers,” the long-serving attorney at the EEOC said. “It’s already slowing down.”

As a federal agency, the EEOC can pursue cases that private attorneys won’t handle, because it doesn’t have to worry about how much money it can win in a settlement or trial. That benefits low-income workers, who often can’t get private legal representation, and it also allows the EEOC to pursue cases that it might not win but that could still have important ramifications. Unlike private attorneys, the EEOC can demand that a company change its practices, not just hand over a certain sum of money. It also has investigative powers that private attorneys don’t. “If it’s harder for the EEOC to ever litigate,” Martin said, “employers realize that they don’t have to worry as much when the EEOC comes knocking.”

Meanwhile, “someone’s livelihood is in the balance,” Burroughs said. “They have a lot to lose when justice is delayed.” By the time a case came to Sanghvi’s desk, it had usually been a year or two since the claimant first asked the EEOC for help. Then they would still have to wait for conciliation or litigation to play out. By that time, many claimants had long run out of money to support themselves. “From charge filing to resolution in litigation is sometimes 10 years,” Wheeler said.

“That’s a real long time to get redress for what happened.”

Many of the sources I spoke with posited that Dhillon’s rush to push changes through was an attempt to get things finalized before the 2020 election. Once Biden assumes office, he can appoint a new chair, so Dhillon will no longer enjoy the power she currently holds. But all of the current commissioners will outlast Trump’s administration, so unless they decide to leave voluntarily, the EEOC will have a Republican majority until at least 2022, when Dhillon’s term as a commissioner expires. (She has already said she intends to serve out the rest of her term.)

A new Democratic chair could reverse some of her initiatives, such as the mediation pilot. But many will be difficult, especially the conciliation NPRM. That will require Congress to deploy the Congressional Review Act, which allows the body to overturn agency actions 60 days after they are finalized. In what appeared to be an attempt to head that off, Dhillon inserted language declaring it “not a major rule” just 24 hours before the commission held its final vote, which would potentially allow it to go into effect before Congress could reverse it. For the agency to once again collect pay data by gender and race, it would have to repeat the entire process it went through in the first place: having the commission vote in favor and getting the Office of Management and Budget to sign off on it.

These efforts would “take time [and] energy from more affirmative work,” Martin said, while inviting potential legal battles over whether the reversals were done correctly. It’s unusual, she added, for even a Republican EEOC chair to “bake in changes that will bind future commissions and make them less effective.” But that’s what Dhillon has done.

“It will be several years before we can make changes on this to get back to where we need to be,” Murray said.
The Empire Is the World

The speculative fiction of N.K. Jemisin

BY STEPHEN KEARSE

Melas, the utopian setting of Ursula K. Le Guin’s 1973 short story “The Ones Who Walk Away From Omelas,” is built on deception. Le Guin introduces the city on a day of celebration, dwelling on its merry crowds, gorgeous architecture, and picturesque proximity to a bay and snow-capped mountains. As the narrator roves through this vista, describing the sights with pride and wonder, the admiration grows defensive. “Do you believe? Do you accept the festival, the city, the joy?” the narrator asks. “Then let me describe one more thing.” The deception ends, and we’re taken to
an emaciated and abused child incarcerated in a dirt cellar. The child is barred from leaving this prison, but everyone ignores its misery; they believe its suffering is necessary for Omelas to thrive. Those who cannot stomach this injustice quit the city, an act of silent protest.

In N.K. Jemisin’s version of this story, “The Ones Who Stay and Fight,” the protesters do not leave, and instead of an abused child, the dark secret of Um-Helat (Jemisin’s pastiche of Omelas) is an underground network of activists who plot to spread disinformation and bigotry. The activists are fought by “social workers” who hunt and kill them. The result is a peace sustained by shadowy bloodletting. Both Le Guin’s and Jemisin’s stories are tales of radicalization, but Jemisin advances a more confrontational politics. The social workers, who are revealed to be former activists themselves, know intimately the city’s façade, but they live with it rather than fleeing. They do not have to leave Um-Helat to imagine changing it.

That embrace of fight over flight is a hallmark of both Jemisin’s work and her experience as a Black woman writing speculative fiction. When her debut novel, The Hundred Thousand Kingdoms, was published in 2010, she received her first death threat. Why? “For existing. Period. Nobody even knew who I was. The novel wasn’t a best-seller. It was before the awards,” she would recall in an interview. Before that, her novel The Killing Moon was rejected by publishers for being too Black, a slander that was retracted after she became a known name and the book found a home. After she denounced the racism she has experienced, in her 2018 acceptance speech for her third consecutive Hugo Award, the prominent science fiction writer Robert Silverberg (who edited Le Guin’s story) scoffed at her candor. “A Hugo acceptance speech should express gratitude, not anger,” he wrote to a private e-mail list.

The mental and personal costs of this persistent animus should not be downplayed, but Jemisin’s response to her reception is instructive. As her genre has displaced and prejudices into opportunities to figureheads and tropes, turning past era of speaking back to the genre’s leading present, was incommensurate with the story she wanted to tell. Instead she studied her once-active blog, she often presents as offensive ‘darkie’ stereotypes.” Saunders, along with other Black writers like Samuel R. Delany, Octavia Butler, and Steven Barnes, endured this lineage of casual bigotry despite its hostility, writing Blackness into the canon.

Jemisin has inherited and embraced this tradition. Born Nora Keita Jemisin in Iowa and raised between Mobile, Ala., and the New York City borough of Brooklyn, she became enamored with science fiction and fantasy as a child. Reading folklore and mythology, watching Star Trek and The Twilight Zone with her father, and penning stories of her own, Jemisin devoted herself to her favorite genre. “I started writing about talking animals and the apocalypse at the ripe old age of eight and never stopped,” she recalls with pride in her 2013 essay “How Long ’Til Black Future Month?” But that enthusiasm soured as the genre she loved began to feel exclusionary, a realization she describes with a sense of betrayal. “Why did I have to travel to the margins of speculative fiction to see anything of myself? Why was it easier to find aliens or unicorns than people of color or realistic women?… I began to realize that the exclusions I’d noticed were not just a matter of benign neglect.”

Those shortcomings initially turned her away from pursuing writing, which she believed was not a viable option: The whiteness of speculative fiction, past and present, was incommensurate with the stories she wanted to tell. Instead she studied psychology and worked full-time as a career counselor, helping college students plot their education by day while writing at night. She maintained that split until the writing ballooned into a round-the-clock commitment, but that background in social science informs her work. On her once-active blog, she often presented racist and sexist tropes as a matter of broken systems within publishing as much as poor craft by individual writers. “How Long ’Til Black Future Month?” describes bigotry...
as the “conscious choices on the part of the genre’s gatekeepers,” citing an infamous instance of Delany having a story declined by an editor at Analog because its characters were Black. Another post, “Why I Talk So Damn Much About Non-Writing Stuff” (a delightfully bloggy title), insists that the best speculative fiction is inherently sociological. “That’s the whole point of speculative fiction for me, really—playing the ‘what-if’ game,” Jemisin writes. “What if, all other things being equal and people being people, the apocalypse happened very few hundred years? What if, all other things being equal and people being people, gods lived among us, and were sometimes real assholes? Those what-ifs don’t work without the people being people part. Which means I need to understand people, in the real world, in all their glory and grotesquerie.”

Her earliest work applies these sociological principles to characterization, with Jemisin constructing her fiction from choice bits of individual lives. “The Brides of Heaven” (2007) is set in Illiyin, a Muslim planetary colony composed entirely of women. The story recounts the interrogation of Dihya, who has been caught sabotaging the colony’s water supply. Dihya is pious, grieving, and clever, attributes that Jemisin uses to complicate the “space madness” trope, which presents space travelers as prone to insanity. Rather than ascribing Dihya’s actions to the inherent loneliness of space, Jemisin dwells on how the colony’s history drove her to her actions.

Due to a malfunction discovered only when the colonists landed, all of the men perish, immediately imbuing the mission with a sense of doom. After her son and the other boys die, cementing the colony’s fate, Dihya’s actions to the inherent loneliness of space, Jemisin dwells on how the colony’s history drove her to her actions.

The interplay between character, concept, and place also shapes Jemisin’s 2010 story “Sinners, Saints, Dragons, and Haints, in the City Beneath the Still Waters.” Set in New Orleans during and after Hurricane Katrina, the story follows Tookie, a drug dealer who shelters in place as the storm hits. On his way home after acquiring food, he encounters a winged talking lizard who warns him the levees will break. Both Tookie and the dragon speak with a warm Louisiana drawl, giving their odd exchange a sense of intimacy. After the dragon’s warning proves true and Tookie and a neighbor struggle to survive the rising floodwaters and another mystical beast lurking within them, he and the dragon become comrades. The story is bolstered by the community Jemisin fashions between the characters and the built environment. As the waters rise and helicopters fly indifferently overhead, the human and animal residents of the Ninth Ward share provisions and intel.

Dihya and Tookie, like so many of Jemisin’s characters, are not mere vessels for a speculative premise; they are its DNA, the foundational materials through which the story unfolds. There is a sense of reclamation to the way she takes stock characters—the grieving mother, the desperate drug dealer, the animal sidekick—and centers their experiences. If the core question of speculative fiction is “What if?,” Jemisin always asks “Who?” and “Where?” and then weaves the questions together. In this sense, improving representation is not just a matter of participation for her; it is also a means of telling better and richer stories. In her subsequent short fiction and novels, these twin goals would produce intricate worlds as well as characters.

Suddenly there is energy around him…. Manny hears the horns of a thousand cars trapped on the FDR. The hissing air is eclipsed by the shouted road rage of hundreds of mouths. As he opens his mouth to shout with them, his cry is delight and the ecstasy of suddenly knowing that he isn’t an interloper.

This sequence is the book’s signature mode. Jemisin portrays New York City as a land of magical solubility, a constant blurring of individual and crowd, person and landscape.

The invading force that claws at the city is unmoved by New York’s ambient magic. Led by the Woman in White—a shape-shifting entity who variably manifests as tendrils, spores, alt-right trolls, a racist white woman who has 911 on speed dial, and the New York Police Department itself—the book’s antagonists are as protan as its heroes. The goal of this oddball coalition is to annihilate New York City, which the Woman in White views as a threat to cosmic order. Jemisin portrays her as a xenophobe. “Lovecraft was right,” the Woman in White says. “There’s something different about cities, and about the people in cities…. You change one another, city and people, people and city. Then your cities start bringing multiple universes together—and once a few such breaches have occurred, why, the whole structure of existence is weakened.”

The reference to H.P. Lovecraft is a loaded one. Although the horror author’s work was filled with xenophobia and racism, his hallucinogenic writing remains influential for many horror and science fiction writers. Another Saunders essay, “Die, Black Dog!,” surveys the grossest
instances of Lovecraft’s bigotry, from a cat
named Nigger-Man to his regular use of
the word “negroid” as a synonym for ugly
and deformed. In recent years, works such
as Victor LaValle’s The Ballad of Black Tom,
James Wan’s Aquaman, and Misha Green’s
HBO series Lovecraft Country (adapted
from the 2016 novel by Matt Ruff) have
reckoned with that influence, making ex-
plicit Lovecraft’s noxious conflation of
nonwhite people with depravity and evil.
But Lovecraft remains a popular and often
imitated writer, and through the Woman
in White and her minions, Jemisin makes
sure we don’t forget his contempt for
many of his fellow humans.

The bigotry that gives the Woman in
White her power also creates opportuni-
ties for Jemisin to capture the social and
physical topography of New York City,
from the scrappy resolve of the nonprofit
art world to Staten Island’s limited transit.
But the diffuseness of the central conflict
can be frustrating. The city’s adversar-
ies collectively represent gentrification,
white hegemony, and corporatization.
These are all pressing problems, but when
bundled together they feel defanged and
cosmetic. While the Woman in White
is a great villain of Lovecraftian import,
she’s also a void, representing everything
and nothing.

Toward the end of the book, Bronca
inadvertently articulates the thinness of
the book’s allegory: “They’re destroying
everything that makes New York what
it is, replacing it with generic bullshit.”
Bullshit is certainly a scourge, but it’s not a
rallying cry or a particularly poignant way
of describing the problems of the city, be-
they rampant police brutality or ruthless,
property-gobbling banks. While Jemisin’s
tangible love for her city and commitment
to showcasing its hidden wonders keep
The City We Became personable and charm-
ing, that adoration doesn’t provide insight
into what New York has to lose, the mate-
rial and structural costs of its destruction.

In Jemisin’s earlier work, we can find far more point-
ed writing about cities and their usurpers. In the Broken
Earth trilogy, her ambitious breakthrough work, cities and towns
are united by imminent climate disaster. The Stillness, a sprawling supercontinent
striated with active rifts and fault lines, is
a land of regular apocalypses, or “fifth sea-
sons,” in the parlance of the world. When
a cataclysm inaugurates a new fifth season,
“comms”—short for “communities”—
spring into defense, fortifying themselves
against outsiders and expelling the weak
from their ranks. This harsh, ingrained
provincialism is normal in the Stillness,
but for “orogenes”—humans imbued with
the power to harness and control the conti-
nent’s volatile seismic activity—the misery
is compounded. The powerful Sanzed Em-
pire, which has persisted through dozens of
fifth seasons, has systematized the subjuga-
tion of orogenes, using them to maintain
political power.

The trilogy follows the consequences
of that brutal control. An epic of cli-
mate change, empire, and grief, the se-
ries is rightly recognized for its nuance
and vision, which embraces the geological
central conflict can be frustrating. The city’s adversar-
ies collectively represent gentrification,
white hegemony, and corporatization.
These are all pressing problems, but when
bundled together they feel defanged and

Yeats’ Stance

When I was about twenty I went by myself
up into the tower the holy place
and never questioned it, but felt
I could never be of it.

You could feel it in the air
this power
like being shown another planet
and not sure I’d ever come back
from this world of gods who were men.

You are not allowed here.

In these lonely steps I took
there was no one to help me.

The look of the stone the sound
of the stone it’s all

go away.

JEAN VALENTE
ing the consequences of Yumenes’s fall, and then returns to the death that began the story. Every shift in perspective connects these happenings across time and space, a theme that runs through the series.

That sense of resonance, of quakes and their aftershocks, takes on many forms. A large portion of the series is written in the second person, a frame that conveys the dissociation experienced by Essun, an orogene who is one of the main characters. A mother, fugitive, and both survivor of and participant in military violence, Essun obscures her past in order to endure the present. Her alienation is underscored by the constant presence of “stone lore,” carved, scripture-like tracts that instruct the denizens of the Stillness how to survive the seasons. Much of the stone lore is prejudiced against orogenes and was created by the Sanzèd Empire. Jemisin places it at the ends of chapters with dates and sources, a move that accentuates the antiquity and ubiquity of anti-orogene sentiment. The result of this ambient hostility is the sense that the whole of the Stillness opposes Essun and her kind. The empire is the world.

As the story moves away from Yumenes, the arrogance of its architecture persists in the empire’s smaller designs. The might of the Fulcrum, a grim military academy where orogenes face death or enslavement if they do not learn to control their powers, echoes across the Stillness. Essun was trained in the Fulcrum, and her indoctrination sours her relationship with her encounters during the fifth season. Essun is tormented by her training and marked by it, a continuity that imbues Yumenes with a haunting presence even as it lies in ruin. The overall effect of all this symmetry is a haunting presence even as it lies in ruin. It, a continuity that imbues Yumenes with tormented by her training and marked by it, a continuity that imbues Yumenes with a haunting presence even as it lies in ruin.

Jemisin’s ability to nimbly bring spaces to life is tied to her attention to form. Where epics are generally defined by their length and scope, Jemisin emphasizes proportion. This is especially true of her short stories. Earlier in her career she didn’t write short fiction, preferring the space of novels, but a writing workshop encouraged her to think of the formats as interrelated. In the introduction to her short-story collection How Long ’Til Black Future Month? (named after her 2013 essay), she writes that she now uses short fiction “to test-drive potential novel worlds,” which is the process that led her to discover how well the second-person perspective worked for the world of the Broken Earth trilogy. That holistic approach to form and content produces stories that are rich yet fleet, epic and layered without being overwrought.

The City We Became is an expansion of her 2016 story “The City Born Great,” which focuses on the avatar of New York City. (Unlike the novel’s borough avatars, this one embodies the city in full, until he enters a deep, Sleeping Beauty–like rest.) Every element of The City We Became is in place in the short story, which opens the novel in a slightly modified form. The New York avatar, a homeless and restless graffiti artist, stalks the city with alert eyes and an empty stomach. He rarely interacts with anyone but is acutely aware of his visibility, especially when cops, “harbingers of the enemy,” are around.

“The City Born Great” is nominally a detective story, predated by Syl Anagist, another imperial seat. Syl Anagist fell into ruin ages before Yumenes, but its designs pock the earth in the form of ominous, floating obelisks. What’s left about Jemisin’s sense of place is that she never reduces a city to a single event or person, always gesturing forward and backward in time. Throughout the final book of the trilogy, we encounter Syl Anagist as a technical marvel, a city of dust, and a tragic legacy of meddling with the environment. Those leaps in time and space define Jemisin’s fascination with cities, turning them from settings into ecosystems, webs of experience.

A detective as much as a storyteller, Jemisin does more than build worlds; she unearths who they work for and against.

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“The City Born Great” is nominally a detective story, but in quick, deft strokes Jemisin taps into the contradiction of belonging to a place—of being a place—that is inhospitable. As the story winds into a foot chase and eventually a magical street fight, its core tensions never lose valence. The avatar’s transformation, like those of the boroughs in the book, is a mix of self-reckoning and collective consciousness:

I grow bigger…. There are others here with me, looming, watching—my ancestors’ bones under Wall Street, my predecessors’ blood ground into the benches of Christopher Park. No, new others, of my new people, heavy imprints upon the fabric of time and space. São Paulo…. Paris….Lagos…. This scene grows formulaic as it recurs in the novel, but it demonstrates Jemisin’s inner social scientist at work. She refuses to extricate people from their milieus, their potential from the forces that constrain it. Though The City We Became loses punch as the milieu dilutes into “bullshit,” it excels when the stakes are intimate and exact.

Jemisin writes both back to her genre and for herself. While her achievements defy the soft and hard bigotries of the Lovecrafts, Silverbergs, Robert E. Howards, and Edgar Rice Burroughs who populate speculative fiction’s past and present, her work should not be reduced to a mere rebuke of racism within this community or a corrective to decades of racism and sexism in publishing. Nor should the accomplishments of her predecessors and contemporaries—Delany, Butler, Nalo Hopkinson, Christopher Priest, P. Djèlí Clark, Nnedi Okorafor, Violet Allen—be overlooked.

When Saunders revisited “Why Blacks Don’t Read Science Fiction” in a 2000 sequel called “Why Blacks Should Read (and Write) Science Fiction,” the subject of his critique turned from inclusion in a gated community to the achievements of his peers. “Just as our ancestors sang their songs in a strange land when they were kidnapped and sold from Africa,” he wrote, “we must, now and in the future, continue to sing our songs under strange stars.”

This is the core of Jemisin’s project: not just to write herself and her people into the canon but also to fulfill her own designs, to sing her own songs. The worlds she builds are ornate and immersive and riveting not only because she challenges the sordid past of her genre but because she plots its future, fabricating worlds and peoples that swell rather than contract. I hope her cities outlast us all.
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Over 150 years of truth-telling journalism
ID I EVER TELL YOU ABOUT MY IDEA FOR A TV SHOW? I envision it as a kind of alternate-history thriller—think *Watchmen* meets *The Man in the High Castle* meets *The Plot Against America*. The premise: The Bolsheviks’ wildest hopes were fulfilled, and their seizure of power in Russia was indeed followed by worldwide socialist revolutions. Yet these uprisings didn’t happen as expected, for the revolutionaries were not left-wing militants but the political and business elites of the old regime.

The 19th century economic order was overthrown not by mass movements or vanguardist parties but by the modern corporation and the administrative state. Season 1 ends with the big reveal: It was our timeline all along! Capitalism really did end after World War I, and we’ve been living under covert collectivism ever since.

OK, so it might not be a masterpiece. Still, if Netflix doesn’t bite, I just might pitch it to Dinesh D’Souza—for versions of this story have already found a wide audience on the American right. You know the basics: a socialist onslaught all but extinguishing the free market; a class of managers and bureaucrats controlling government and big business alike; an intellectual sphere pervaded by cultural Marxism. Start filming now, and we can bang out a pilot in time to capitalize on the presidency of “Red Joe” Biden.

What today looks like a conspiratorial right-wing story once had a wider appeal. For much of the 20th century, the notion that Western societies were becoming non-capitalist—or had already done so—was commonplace among left-liberals as well as conservatives. Karl Marx had already depicted joint-stock companies as the “transitional forms” heralding “the abolition of the capitalist mode of production within capitalist production itself.” Variants of the theme could be found in everyone from the New Dealers Adolf A. Berle and Gardiner C. Means to the Trotskyist turned conservative James Burnham (currently back in vogue among the more highbrow strands of MAGA). The separation of ownership and control in the modern corporation was only the most prominent of the mechanisms by which it seemed that capitalism was rendering itself obsolete.
It’s easy, perhaps too easy, to sneer at such predictions, whether issued in an optimistic left-wing or an apocalyptic right-wing vein. These days, discussions of the subject instead tend to invoke Fredric Jameson’s adage that it’s become easier to imagine the end of the world than the end of capitalism. But is that really so surprising? After all, it’s intuitively clear what sorts of things might signify the end of the world (climate change, asteroids, zombies). Yet the end of capitalism is doubly ambiguous, for uncertainty about how capitalism might end reflects a deeper uncertainty about what exactly capitalism is. It’s sometimes suggested that this uncertainty is not accidental, that abstraction and opacity are central characteristics of the system, which if true would make the common injunction to “smash capitalism” less than self-evident: Is capitalism even the sort of thing that could be smashed, like a vase or a VCR? If it isn’t, should we expect its demise to come by self-destruction, stagnation, or mutation? Should we expect it to come at all? As Francesco Boldizzoni’s lively and wide-ranging book Foretelling the End of Capitalism makes clear, attempts to answer these questions are as old as the concept of capitalism itself, and they’ve led to remarkably varied conclusions.

Foretelling the End of Capitalism moves briskly across a century and a half of intellectual history, from Marx and John Stuart Mill in the mid-19th century (when the term “capitalism” entered the lexicon) to the aftermath of the 2008 crash. The intervening cast of thinkers is large, if almost entirely European and American: Max Weber and Rosa Luxemburg in the beginning of the 20th century, John Maynard Keynes and Joseph Schumpeter in the middle, Daniel Bell and Francis Fukuyama more recently, along with dozens of others. Boldizzoni’s subtitle, Intellectual Misadventures Since Karl Marx, indicates his generally low opinion of their collective efforts, and the last part of the book ventures a general account of how they went wrong.

Boldizzoni divides the prophecies he examines into a few basic categories. The most prominent is “implosion,” the suggestion that capitalism will collapse due to its own economic contradictions. Much of the Marxist tradition falls into this category (although, of course, not all Marxists have imagined that capitalism will inevitably implode), and Boldizzoni draws out a few distinct Marxist theories of economic crisis: overaccumulation, underconsumption, disproportionality.

A second vision of capitalist collapse is “cultural involution,” framed around the system’s cultural or political contradictions rather than its strictly economic ones. This notion is more common on the right and in the center than on the left; a classic instance is Schumpeter’s claim that “the capitalist order not only rests on

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them. To treat culture as an independent variable shaping capitalism is to neglect how the two are intertwined, as well as how capitalist imperatives make themselves felt on all actors, regardless of cultural background. Likewise, the two specific cultural traits that he treats as the distinctively Western building blocks of capitalism—hierarchy and individualism—raise more questions than they answer. Isn’t hierarchy an important feature of many different societies, not just Western ones? And couldn’t individualism be more an effect of capitalism than a cause of it?

Even more perplexing is the assertion that “most non-Western countries,” and specifically the BRIC countries (Brazil, Russia, India, China), “cannot be characterized as capitalist”—a striking claim that never receives the elaboration necessary to justify it. Certainly, it reflects Boldizszoni’s tendency to conceive of capitalism in terms of a set of discrete national economies rather than as an inherently interlinked global system. Perhaps it also stems from his general culturalist orientation: His definition of capitalism requires not just a particular economic structure but also “a bourgeois culture,” which he apparently takes to be coterminous with Western culture. Regardless, this claim about the specifically Western nature of capitalism might make us wonder about his insistence on its durability. If all these different economic models qualify as non-capitalist (and there are large variations even with the BRICs), then it’s not a noncapitalist future not just plausible but possibly imminent?

More broadly, Boldizszoni’s dismissal of the theorists he examines seems unwarranted. Not all of them flatly predicted that capitalism would end anytime soon, and many of them (from the Frankfurt School to Fukuyama) were more fascinated by capitalism’s persistence than its instability. And what’s the standard by which we judge a successful or unsuccessful prophecy, anyway? Many of them invite the response (perhaps apocryphal) that Zhou Enlai is purported to have given Richard Nixon when asked about the consequences of the French Revolution: It’s too soon to tell. Similarly, what would have constituted a correct forecast in, say, 1920? Perhaps a perfect forecast would precisely track the subsequent history: cataclysmic depression and war, then decades of unprecedented prosperity, then stagnation and recurrent crisis, then... whatever we have to look forward to now. But if pressed to give an overall verdict, would we say that the optimists or the pessimists were closer to the truth?

Boldizszoni’s real gripe is less with the details of this or that forecast than with the very enterprise of social forecasting. Mere prediction is unobjectionable and unhardy; the optimists or the pessimists, would we say that the optimists or the pessimists were closer to the truth?

Hence, it’s worth dwelling briefly on the concept of capitalism itself. Boldizszoni’s book shares its basic framing with many treatments that would disagree sharply with his political conclusions: There is a system known as capitalism, we more or less understand what it is, and the question is whether and how it might end. This framing reflects the fact that nearly all of his thinkers made explicit reference to something they called capitalism, however differently they might have understood it, obviating the need to justify the use of the term. But why did they find it necessary to talk about capitalism at all? Why invoke the broader concept, as opposed to the various discrete phenomena that it encompasses—money, markets, wage labor, and so on? The main work that it performs, for them and still for us, lies in the claim to describe something that is both systematic and historical: an overall system that has a logic transcending these individual phenomena, and one that isn’t an eternal fact of human society but exists only in particular historical circumstances.

Admittedly, not all work on capitalism keeps these aspects in the foreground. Recent years, for instance, have brought an upsurge of scholarship in the history of capitalism, a field that has often been reticent about defining its central term. Such a lack of definition allows us to trace instances of “capitalism” (as represented by markets, coinage, trade networks, or whatever) in ancient Mesopotamia or medieval Europe, with the ironic result that capitalism ceases to look like a historically specific formation at all. Yet by this logic, there’s little reason to hold on to the term; we could simply follow mainstream economics and talk about the specific phenomena that interest us without relating them to some larger master concept.

Talk of capitalism only makes sense if it refers to some sort of historical order standing in contrast to noncapitalism—one with a beginning and (presumably) an end. Where to draw those lines might be highly contested, but the usefulness of the concept presumes some lines of this sort. And this suggests that we can’t simply bracket off capitalism’s present from its past and future, as Boldizszoni wants us to do. For the concept to be meaningful, it has to imply some kind of historical dynamic, so that any attempt to describe what capitalism is today will also imply some account of where it came from and where it’s going.

Understanding capitalism’s past involves many of the same difficulties as predicting its future. By beginning his story in 19th century Britain, already a canonically capitalist society, Boldizszoni can mostly avoid the question of origins. Yet his theme, the problem of capitalism’s end, mirrors the problem of its emergence—a debate that predates the term “capitalism” itself, going back at least to the 18th century Scottish historians of commercial society. A traditional view, available in both liberal and Marxist flavors, holds that capitalism emerged in early modern Europe from the previous social order, feudalism, in conjunction with the political process by which the bourgeoisie supplanted the old nobility. Today this story looks a great deal less tidy. Historians of medieval Europe are increasingly disinclined to see the preceding order as a single coherent feudal system, much as historians of modern Europe have cast doubt on the notion that the old regime was decisively routed by a set of bourgeois revolutions.

Such untidiness doesn’t mean that it’s pointless to discuss the emergence of capitalism; anyone who believes that capitalism didn’t always exist but does now
must also believe that it emerged somehow, somewhere. But the whole problem does at least look messier. Where and when we locate capitalism’s origin will depend on what we take to be its decisive characteristics, and any origin story is likely to be protracted and uneven. Should we infer from this that capitalism’s demise might be equally murky and anticlimactic?

It’s true, as the leftist journal *Endnotes* recently argued, that the concept of an ending can be simpler than that of an origin. Describing how a given animal comes into being might require a deep knowledge of embryology and evolutionary biology, but it’s much easier to say when and how it dies. Thus we could recognize the end of capitalism without making any particular claims about how it began or about the origins of what comes after. Yet the analogy between an organism and a social order has its limits. Run over a squirrel, and you end up with a dead squirrel, not a post-squirrel. The end of capitalism, by contrast—at least so long as it doesn’t coincide with the end of the world—would by definition mark the arrival of a postcapitalist order, and we’re still left with the problem of specifying the line between the two. This involves deciding which elements of the current order must vanish for capitalism to end and which could remain under postcapitalism—that is, which elements are essentially capitalist and which are not.

The problem is already apparent in Marx. Commodity production and exchange are not the creations of capitalism, as he noted in *Capital, Volume I*, but instead “form the historic presuppositions under which capital arises.” Commodities, money, markets, and property have been present in “many economic formations of society, with the most diverse historical characteristics,” and in that sense they are not uniquely capitalist. What distinguishes capitalism from earlier formations, he insisted, is its particular configuration of these institutions. Only under capitalism is economic life “dominated in its length and breadth by exchange-value,” so that the products of labor are universally treated as commodities and workers are universally forced to sell their labor power as a commodity.

Marx’s arguments might seem to imply that where these conditions no longer hold—where, for instance, the necessity of wage labor has been eliminated—a

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**My Husband Tells Me About a Man Who Doesn’t Kill Himself**

We are trapped in traffic beneath the overpass, and the man in his story trembles on the edge of an overpass eight hundred miles west of here. Here, I have not tried to die for some years now.

The point of his story is the call someone makes to nearby truck drivers. Together, they gather beneath the man to form a net of big rigs and wait for as long as it takes for a person to reconsider the impossibility of tomorrow. I’ve known the mangled shape the mouth makes begging someone not to die. Which is different from begging her to live. My husband’s mouth, I think, makes this shape now.

All my life I thought I was hard to love.

EUGENIA LEIGH
postcapitalist society might still maintain some forms of money, markets, property, and commodity exchange, just as precapitalist societies did. Yet Marx never gave much credence to this possibility. While he sketched transitional forms between capitalism and communism, he imagined the process culminating in an order in which all of these institutions vanish, along with exchange value itself. Although their mere existence isn’t sufficient to show that capitalism has begun, in other words, their abolition is necessary to show that capitalism has truly ended. But it’s not clear that this conclusion follows inevitably from Marx’s understanding of capitalism itself.

In general, criteria for determining the onset of capitalism don’t always provide sure guidance for identifying its end. For instance, one suggestive way of conceiving capitalism is in terms of “market dependence,” the extent to which participation in markets becomes mandatory for survival. Historically, its meaning is intuitive: Peasants who engaged in occasional market exchange but could live without doing so were not yet market-dependent, whereas those who could no longer provide their own subsistence and had to exchange in order to survive had become subject to capitalist imperatives. But what might this criterion imply for the future, if we assume that postcapitalism won’t involve a return to economic self-sufficiency?

Imagine, for instance, a universal basic income program generous enough to ensure a reasonably comfortable standard of living. This guarantee of subsistence would remove the most important form of market dependence: You would no longer need to earn money to survive. On the other hand, the rest of the division of labor and the infrastructure of market exchange would remain in place. Upon cashing your UBI check each month, you would still go as before to buy your essentials at the local supermarket chain, which in turn would still pay wages to its employees (higher wages now, due to the UBI floor) and dividends to its shareholders. Would this still be capitalism?

These questions might be worth considering in an era where avowed anti-capitalist currents of various stripes have flooded back onto the scene. The most widespread of these currents, after all, are often forms of market socialism, preserving much more of what came before—money, markets, personal property, the democratic state—that most earlier anti-capitalists would countenance. This isn’t necessarily a problem for their advocates, and we should be wary of demanding too much specificity about an inherently uncertain future. Yet well-worn skepticism about considering “recipes for the cook-shops of the future” (in Marx’s phrase) can risk reinforcing an untenable separation between capitalism’s future and its present. We can’t insist that capitalism must be replaced while remaining purely agnostic about what comes after, for the very claim already implies some sense of what would count as a genuine replacement.

Likewise, the wide range of programs currently gathered under the banner of anti-capitalism suggests that the usual framing of the end-of-capitalism debate is misleading. We aren’t just predicting whether capitalism will survive or not but also figuring out what it would mean either way. At the very least, anti-capitalists should be prepared to answer the question of how we would recognize the end of capitalism if it arrived.

**Capitalism has always been a contested concept—which raises the question: How would we know when it ends?**

Capitalism has always been a contested concept, and it has sometimes served to mystify as well as demystify. Does that mean we should give up on it altogether? The right has historically had a hostile relationship to the term, and only gradually did public intellectuals like Milton Friedman and Irving Kristol make it safe for capitalists to embrace “capitalism.” (That the project was never fully successful is suggested by incidents like the Texas Board of Education’s mandate that textbooks replace “capitalism” with “the free-enterprise system.”) Yet skepticism about the concept has footholds on the left as well. In *Capitalism: The Future of an Illusion* (2018), the sociologist Fred L. Block argues that whatever its original critical purchase, the concept today serves to bolster market fundamentalism rather than undercut it, since it implies that the system is a seamless whole and that any attempt at partial change will be ineffective or counterproductive.

There’s something to be said for that argument, but I wonder if the concept has really lost all of its critical force—surely there’s a reason that capitalists prefer to talk of free enterprise rather than capitalism. Perhaps the concept, with its central claim to describe a systematic and historical phenomenon, is inherently double-edged. It can blunt concrete analysis by suggesting that everything we might dislike is a necessary feature of the system, which is more likely to lead to political quietism than wholesale rejection. But it can equally remind us of the historical nature of our economic arrangements: that they aren’t necessary implications of human freedom or material scarcity but a particular response to problems that other societies have dealt with very differently. Such historical awareness remains vital to any attempt to change them.

A different kind of skepticism came from one of the 20th century’s most prominent anti-capitalists. By the time he looked back on the history of his own lifetime in *The Age of Extremes* (1994), Eric Hobsbawm was prepared to allow that “the simple dichotomy ‘capitalist’/’socialist’ is political rather than analytical.” The dichotomy reflected the perspective of labor movements whose idea of socialism “was, in practice, little more than the concept of the present society (‘capitalism’) turned inside out,” followed by the political bifurcation of the world during the Cold War. “Instead of classifying the economic systems of, say, the U.S.A., South Korea, Austria, Hong Kong, West Germany and Mexico under the same heading of ‘capitalism,’” he concluded, “it would be perfectly possible to classify them under several.”

We could read this as a renunciation of Hobsbawm’s old cause. But he doesn’t say that the capitalist/socialist dichotomy is useless; he says that it’s “political rather than analytical.” In other words, there’s no objective set of categories to tell us where one ends and the other begins, for any categorization is already implicated in concrete political struggles, and its precise content will change according to their contours. This doesn’t mean that we must renounce aspirations of ending capitalism. But it does mean that the bare aspiration of doing so still leaves us with a final question: What exactly do we want to end?
Unexpected Insight

Luca Guadagnino’s We Are Who We Are

BY ERIN SCHWARTZ

Within a day of arriving in Italy from New York, Fraser Wilson, the protagonist of Luca Guadagnino’s We Are Who We Are, gets blood on his prized Raf Simons T-shirt. The garment, from Simons’s 2013 spring/summer collection, is printed with a painting by the artist Brian Calvin of a pale-skinned woman holding a can of Modelo; it’s an item with clout that, until a recent spike in price, tended to sell secondhand for around $200 on the menswear resale site Grailed. Fraser, played by Jack Dylan Grazer, loves it—he name-drops its designer at every possible opportunity—and bloodies it after getting drunk and falling off a bridge railing. The fall cuts his cheek, staining the shirt’s front with a soft crimson splotch.

We Are Who We Are is a meditation on youth, less as a time in one’s life than as a mindset one inhabits—the capacity to be brave, careless, and skeptical in ways that often go wrong and at times produce something miraculously, ecstatically emancipatory. Fraser is the typical rebellious teenage son of a disciplined parent. His mother, Sarah Wilson (Chloë Sevigny), is a US Army colonel transferred to run a dysfunctional military base in Chioggia, Italy. As Sarah, an outwardly stoic character with a tendency toward intrusion in the emotional lives of others, asserts her authority at the base, Fraser navigates relationships with the other teenage children of the soldiers there—in particular, Caitlin Poythress (Jordan Kristine Seamón), aka Harper, who is exploring their trans identity.

The HBO series is set in 2016, timestamped with a soundtrack of Blood Orange and Young M.A and the background hum of the Trump-Clinton debates on TV. Harper’s father, a strict lieutenant colonel named Richard Poythress—played by Scott Mescudi, better known as the rapper Kid Cudi—is a Donald Trump supporter, and one particularly striking shot shows him tugging a MAGA hat over Harper’s hair and smiling into the mirror. It’s a smart choice to set the stage for cataclysms large and small against the naive arrogance prevalent in the run-up to the 2016 elections. We Are Who We Are traces how these assumptions of victory—among youth, the 2016 Democrats, the US military, and perhaps Americans in general—fall apart, with disastrous consequences.

Early in her tenure at the base, Sarah briskly decides to send a detachment of troops to Afghanistan over Richard’s protests that they are not ready. On the night of Trump’s victory, she gets word that three of the soldiers were killed by an IED blast, a loss that many on the base blame on her leadership. One of those soldiers, Craig Pratchett, was a member of Harper’s group of friends and had just married his pregnant 19-year-old girlfriend, Valentina, before deploying. His friends return to the empty seaside mansion where they had staged an ad hoc wedding party to mourn Craig with vodka and drugs, a night that ends with a bad trip and smashed windows.

From then on, the lives of Fraser and Harper will be profoundly affected by the consequences of Sarah’s choices. The deaths set off a chain of events that lead to Richard’s transfer and his family, including Harper, leaving Italy. Harper shows an interest in joining the military, which would become an impossibility as an out trans person under Trump-era rules—and both teens discover they have very little agency to change the world around them. They become pawns in their parents’ power struggle at the base, a situation Fraser addresses mostly by shouting at his mom and Harper deals with by retreating behind headphones.

Part of Guadagnino’s mastery in the show is the way he examines the pair’s efforts to find a place in which they belong: how they
dress, where they go, how they spend their days, who they are. Some of the show’s best scenes are in places Fraser and Harper appropriate and make their own: the Poythress’s peach-tiled bathroom, where they buzz Harper’s hair, or the seaside mansion for Craig and Valentina’s wedding party, where they eat stolen spaghetti by the handful and drink stolen booze. They carve out space for grand, private ambitions during unfavorable times, a quest that leads to unexpected flashes of insight.

One of the forms of self-expression the pair employ, fashion is Fraser’s chosen language. Their friendship begins when he notices Harper’s interest in presenting as male and offers himself as a kind of chaotic teen Pygmalion. “The stuff you wear is inappropriate for what you’re planning on doing,” he tells them with blunt honesty when they wear a baggy men’s dress shirt and baseball cap to flirt with a girl at a bar. He attempts to mold Harper not into an image of the ideal man but rather into the particular Gen Z, New York–based fashion archetype he himself embodies. Fraser sends them a Dover Street Market bag containing a designer polo and carpenter jeans, and soon Harper begins to dress in items like a vintage Coogi sweater and a duck corduroy jumpsuit, who takes Harper back to a bar. He attempts to flirt with a girl at an audacious suspension of disbelief at wearing a baggy men’s dress shirt and hat. (Still, the date ends with a crushing offhand remark: “Lo so che sei una ragazza”—“I know you’re a girl.”)

Fraser’s own wardrobe demands an audacious suspension of disbelief at times. He has several pieces of clothing inspired by avant-garde designers like Comme des Garçons and Yohji Yamamoto and an archival tactical vest, printed with colorful tempera-painted flowers, by the cult German designer Bernhard Willhelm. His go-to puffer jacket is a $1,991 Vetements piece produced, anachronistically, in the spring of 2018, and he owns a couple of limited-edition Takashi Murakami plushies of grinning flowers with rainbow petals. In contrast with the precise uniformity of the adults’ military garb and practical civilian wear, the clothing worn by Fraser and Harper belongs to an alternate universe of expressive freedom and limitless creative resources.

Harper balks at some of Fraser’s suggestions. When Harper rejects a recommendation about how to style a mustache made from hair clippings, Fraser complains, “This is not what I had in mind for you,” and Harper shoots back, “Surprise, I exist outside of your mind.” But Fraser’s understanding of Harper’s desire to live differently in their gender gives both of them an entry into this alternate universe—a world of good clothes, gender-fluid beauty, music, poetry, and romantic possibility. They access it in large part through their phones and computers, sprawled out in their bedrooms, which does not make it any less real.

Later in the series, Harper and Fraser both get a chance to test their identities away from the base, in particular in the series’s final episode, when the pair hitch a ride to Bologna for a Blood Orange concert the night before Harper’s family leaves Italy. For each, it leads to vague disappointment. Fraser ends up kissing a boy named Luca (the only character in the show to match his enthusiasm for Raf Simons), which proves to be underwhelming, and Harper flirts with a bartender, a woman with a buzz cut wearing a safety-pinned corduroy jumpsuit, who takes Harper backstage. After they kiss, the bartender asks, “You’re transgender, right?” and Harper panics and leaves.

The show’s final moments come as a surprise, one that casts love as belonging less to the realm of fantasy than to hard-won self-knowledge, something that comes near the point of exhaustion. Love, Guadagnino proposes, is not the enchanting stranger across a crowded room, but the person with whom you have weathered the storm. It is not a matter of ideals (gendered or otherwise) but of practice: You have to make it happen. By the end of 2020, many of us had reached our own points of exhaustion and loneliness, and this makes the lesson of We Are Who We Are especially poignant. It is still possible to find joy and maybe even love in unfavorable times, but it requires effort and a willingness to embrace all of the messy, stupid, youthful bravery that helps us see ourselves and others clearly.
Letters

No Hope or Change

☞ Re “Biden’s Picks: The Good, the Bad, and the Ugly,” by Robert L. Borosage [Dec. 28, 2020/Jan. 4, 2021]: Joe Biden made it clear from the very beginning of his campaign that his intent was to return the country to its pre-Trump status quo, not move the needle forward one iota. Of course, the pandemic has forced him to make some alterations to his program, but no one should be so naive as to expect any substantive or fundamental change to the root causes of the problems baked into our capitalist system—problems that Trump et al. simply exploited, as the article points out so well.

Lin Kaatz Chary

An Open Question

☞ I very much enjoyed Peter E. Gordon’s article about Theodor Adorno, “The Scars of Democracy” [Dec. 28, 2020/Jan. 4, 2021], especially his discussion of the concept of fascism arising within liberal democracy. But I was very surprised that once the word “commodity” entered into the discussion, there wasn’t a larger spotlight on capitalism, rather than liberal democracy, as the “base metal” of fascism. Is it possible to have liberal democracy without capitalism, or are the two intertwined?

Antony Esuk

Fly High, Comrade

☞ Kudos to Dave Zirin for capturing, in very few words, the essence of a complicated and complex character, defiant and contradictory, as large in charisma as he was diminutive in stature (“Diego Maradona (1960–2020),” Dec. 28, 2020/Jan. 4, 2021). Maradona lived, in spite of the obstacles life threw at him. His unpredictable and oft-unedited charm will be missed, and so will the man for the icon that he was.

Antony Esuk

Thank you for your kind and warm words that do justice to a person who used his skills as the best athlete ever to advocate for political sovereignty, economic independence, and social justice. Vuela alto Diego!

Pablo Sadler

Higher Math

☞ Brandon Hasbrouck suggests that Black votes be counted twice (“The Argument: Double-Count All Black Votes,” Dec. 28, 2020/Jan. 4, 2021). This proposal would violate the “one person, one vote” rule and is accordingly unconstitutional.

Edmund Rosner

☞ Comment drawn from our website letters@thenation.com

The Nation
Q&A

Jamie Raskin

Representative Jamie Raskin (D-Md.), a constitutional law professor who serves on the House Judiciary Committee, knew immediately that Donald Trump’s incitement to insurrection on January 6 necessitated a second impeachment. That clarity led House Speaker Nancy Pelosi to name him as the lead manager for impeachment in the expected Senate trial. Raskin, who is grieving the December 31 suicide of his 25-year-old son, Tommy, and had family members with him at the Capitol when it was attacked, has been a profile in courage and grace in the first jarring days of 2021. We spoke on the day the House of Representatives voted, 232-197, to impeach Trump.

JN: Why, in your view, did the January 6 attack on the Capitol necessitate a second impeachment?

JR: We came dangerously close to the overthrow of the US government by an armed insurrectionary mob hell-bent on stopping us from counting the Electoral College votes, as was our constitutional duty. The vote-counting process was delayed by more than six hours as members and staff and family members were evacuated and people were hiding under desks. We heard people trying to bash in the doors 20 feet away from where we were. We were forced to don gas masks, and it was a scene of absolute terror and mayhem.

I’ve got to say, of all of the attempts to synthesize responsibility for this, it’s still Liz Cheney, the head of the Republican Conference, who put it best. She said, “The president of the United States summoned this mob, assembled the mob, and lit the flame of this attack. Everything that followed was his doing. None of this would have happened without the president. The president could have immediately and forcefully intervened to stop the violence. He did not. There has never been a greater betrayal by a president of the United States of his office and his oath to the Constitution.”

JN: Congress had to act.

JR: Of course. The framers inscribed impeachment into the Constitution because they wanted it to be the people’s final and decisive instrument of constitutional self-defense against a president who runs roughshod over the Constitution and acts like a mad king. We have one of those now, and oddly, Republicans keep talking about how we tried to impeach him before—as if that’s somehow a sharp criticism against us. On the contrary, we have been warning about this from the beginning. We have a president who is completely lawless and ungovernable in his conduct.

JN: Do you think there’s a greater recognition of the need to assert the role of the legislative branch as a check and balance on the executive?

JR: Absolutely…. There’s a reason that the people’s branch is in Article I of the Constitution. We have the power to impeach a lawless president. He does not have the power to impeach us. Now is the moment for us to stand up and to strongly reassert Congress as the dominant branch of the US government.

JN: Will strengthening the 25th Amendment be a part of that?

JR: I hope so. That also relates to the separation of powers and the continuity of government. As you know, John, I first introduced a bill to create a 25th Amendment body back in 2017, when I first entered Congress. That body could have acted in this crisis without simply asking Vice President Pence to go to the cabinet. So that is something I think we absolutely need to do. Obviously, it’s irrelevant to the resolution of the current crisis, but at least people’s minds have been concentrated on the necessity of treating it seriously.

JN: How have you managed to grieve, openly and warmly, for your son while taking up vital work for the republic?

JR: I am carrying the spirit and compassion of Tommy Raskin with me in my heart every day, along with the love of my family and friends and colleagues and the hopes and dreams of my constituents. I am fortified in this struggle against fascism.

“I am carrying the spirit and compassion of Tommy Raskin with me in my heart every day.”
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—Claudia Sole, Calif.

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